



Community Development Department

BISMARCK PLANNING AND ZONING COMMISSION MEETING AGENDA June 28, 2017

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

Item No.

Page No.

MINUTES

1. Consider approval of the minutes of the May 24, 2017 meeting of the Bismarck Planning & Zoning Commission.

CONSENT AGENDA CONSIDERATION

The following items are requests for a public hearing.

2. **Tract 205 of Section 2, T138N-R80W/City Lands (JW)**
Zoning Change (P to MA) | ZC2017-009 1

Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny
3. **Lots 1-6, Block 81 and all of Block 88 and all of the vacated Avenue F adjacent to Blocks 81 and 88, Monson's Subdivision and Lots 9-24, Block 81, McKenzie and Coffin's Addition (St. Mary's High School Property) (JW)**
Zoning Change (RT and RM to Conditional RT) | ZC2017-011 5

Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny
4. **Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition (JW)**
Zoning Change (R5 and R10 to R10) | ZC2017-013 9

Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny



5. **Lot 2, Block 2, Wachter's 17th Addition and Lot 1, Block 1, Wachter's 18th Addition (Klee)**
Zoning Change (MA to CG) | ZC2017-012 13
Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny

6. **Sections 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District) and 14.04-01.1 (RR5 Residential District) Relating to the Keeping of Chickens (WH)**
Zoning Ordinance Text Amendment | ZOTA2017-005..... 17
Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny

7. **Sections 14-03-08 (Special Uses) and 14-04-08 (RT Residential District) Relating to Drive-in/Drive-through Retail or Service Establishments (Klee)**
Zoning Ordinance Text Amendment | ZOTA2017-006..... 27
Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission

8. **Trillium Third Addition First Replat (JW)**
Minor Subdivision Final Plat | MPLT2017-003..... 33
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

9. **Trenton 2nd Addition (WH)**
Minor Subdivision Final Plat | MPLT2017-007..... 39
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

10. **Lot 7, Block 11, Northern Pacific Addition (Klee)**
Zoning Change (PUD to RT) | ZC2017-010..... 45
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

11. **Lot 1, Block 1, Bluestem Hills Subdivision (WH)**
Special Use Permit (Accessory Building) | SUP2017-007 49
Gibbs Township
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

12. **Lot 1, Block 5, Century Commercial Park Addition and Lot 4, Block 1, Menard's Addition and Adjacent Vacated Right of Way (WH)**
Special Use Permit (Child Care Center) | SUP2017-008 59
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

- 13. Chapter 14-03-10 (Off Street Parking and Loading/Off-street Parking) (Klee)**
Zoning Ordinance Text Amendment | ZOTA2017-003..... 67

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

- 14. Title 14.1 (Stormwater Management) (Klee)**
Zoning Ordinance Text Amendment | ZOTA2017-002..... 71

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

OTHER BUSINESS

- 15. Other**

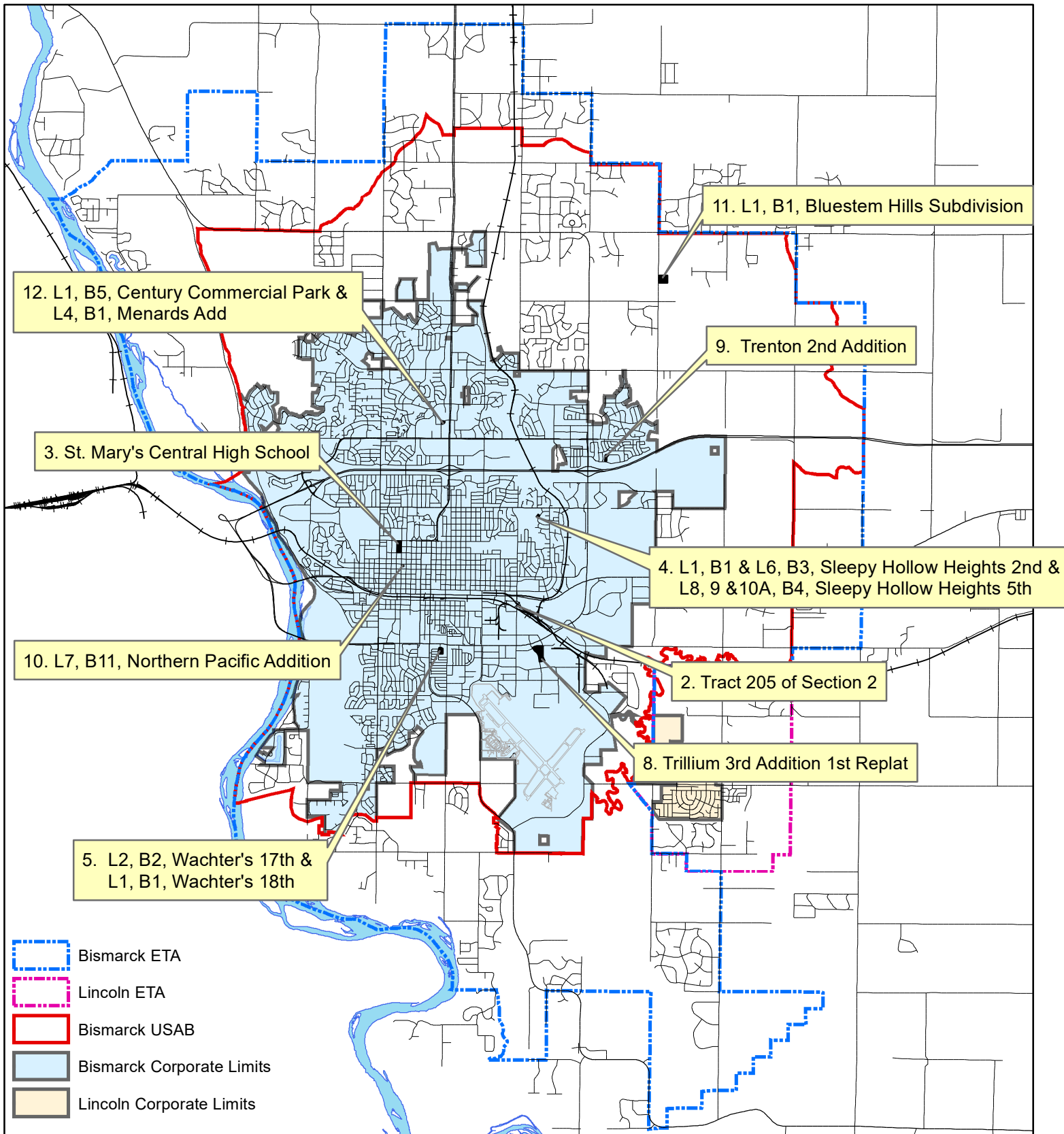
ADJOURNMENT

- 16. Adjourn.** The next regular meeting date is scheduled for **July 26 2017**.

Enclosures: Meeting Minutes of May 24, 2017
Building Permit Activity Month to Date Report for May 2017
Building Permit Activity Year to Date Report for May 2017

General Location Map

Planning & Zoning Commission Meeting - June 28, 2017



June 2017

0 4,000 8,000 16,000 Feet

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion of the meeting. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 2

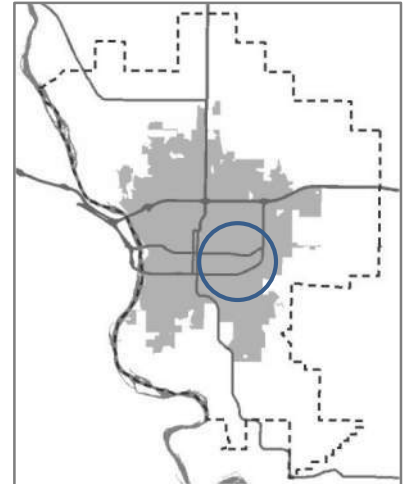
June 28, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-009

Project Summary

Title:	Tract 205 of the NW ¹ / ₄ of Section 2, T138N-R80W City Lands
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Wade French
Project Contact:	Kent Orvik, RLS, KLJ
Location:	In east Bismarck, between East Main Avenue and the BNSF rail line, along the east side of South 26 th Street.
Project Size:	32,060 square feet, more or less
Request:	Rezone property to allow for the combination of the property with the property to the south for future development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	Number of Lots:	1 parcel
Land Use:	Undeveloped	Land Use:	Light industrial/general commercial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	P – Public Use	Zoning:	MA – Industrial
Uses Allowed:	P – Parks, open space, stormwater facilities, and other public uses	Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
Max Density Allowed:	P – N/A	Max Density Allowed:	MA – N/A

Property History

Zoned:	Pre-1980	Platted:	N/A	Annexed:	Pre-1980
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Staff Analysis

The applicant is requesting approval of a zoning change from the P – Public zoning district to the MA – Industrial zoning of Tract 205 in order to combine the

Tract with the property to the south, Tract 207, for future development. Tract 207 was zoned MA – Industrial in August of 2015.

Adjacent land uses include, Public uses to the north (ND Department of Health), east, retail and service use zoned MA – Industrial to the south and industrial uses to the west.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

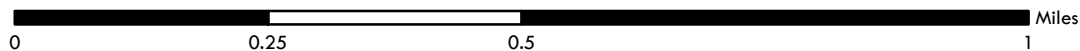
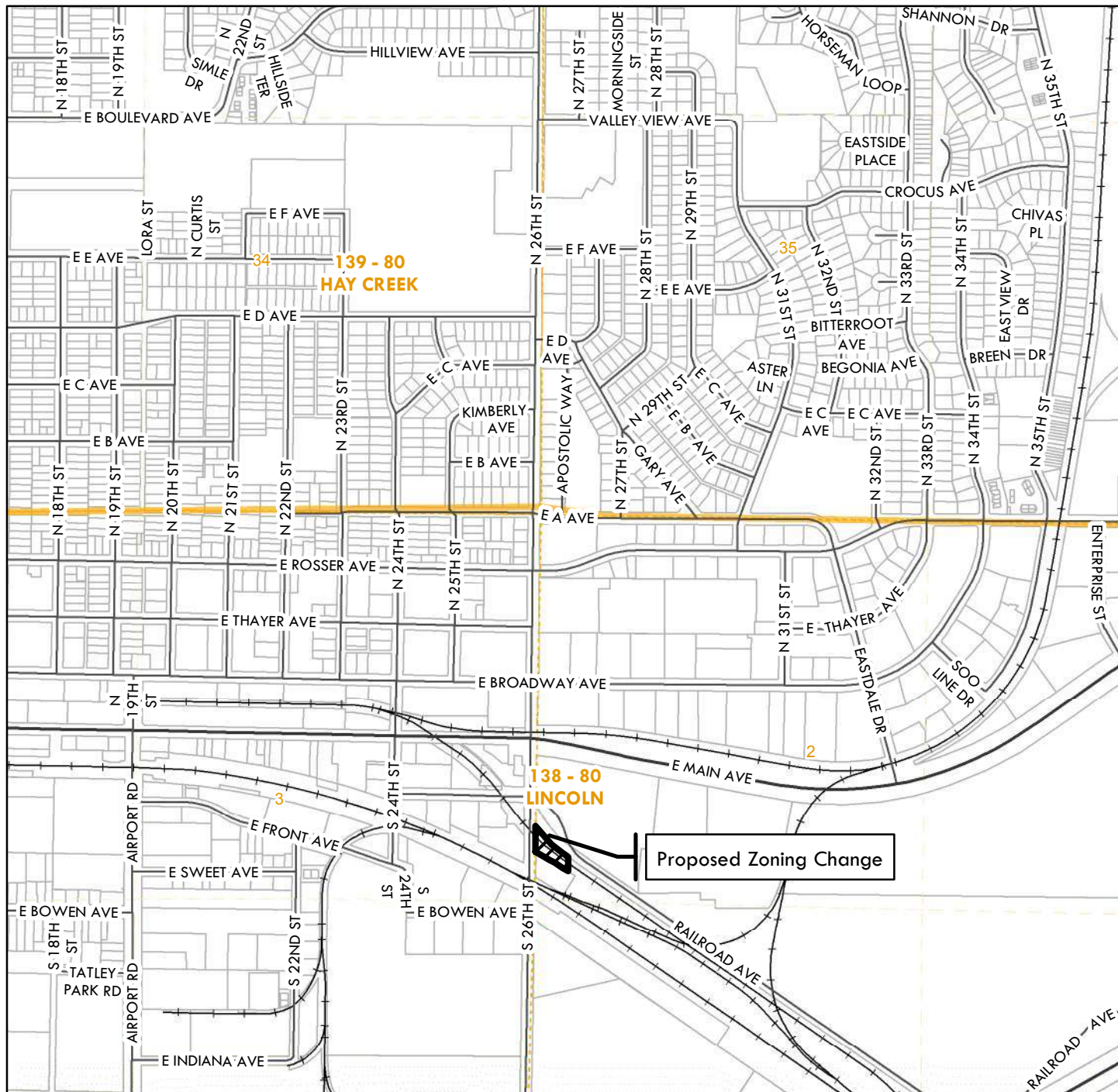
Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the P – Public zoning district to the MA – Industrial zoning district for Tract 205 of the NW¼, Section 2, T138N-R80W City Lands

Attachments

1. Location Map
2. Zoning Map

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

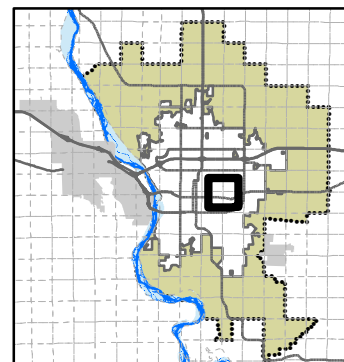


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange





Proposed Zoning Change (A to RR)

Tract 205 of the NW1/4 of Section 2, T138N-R80W City Lands

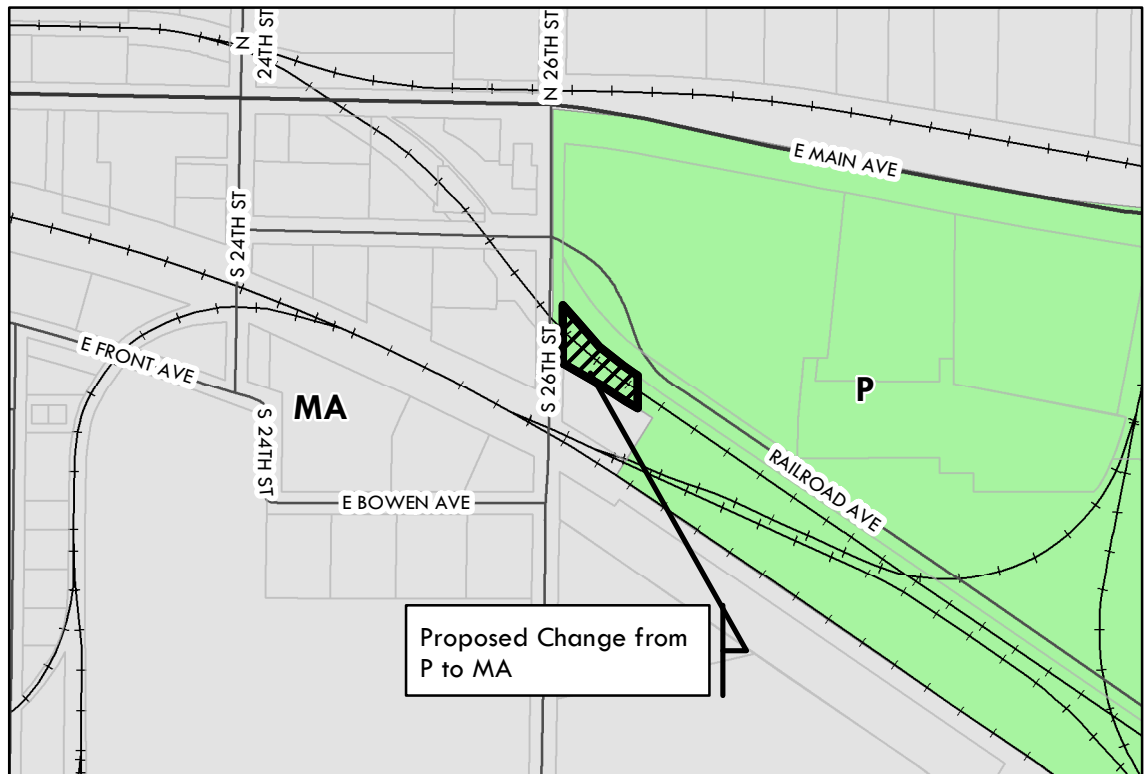
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
	Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

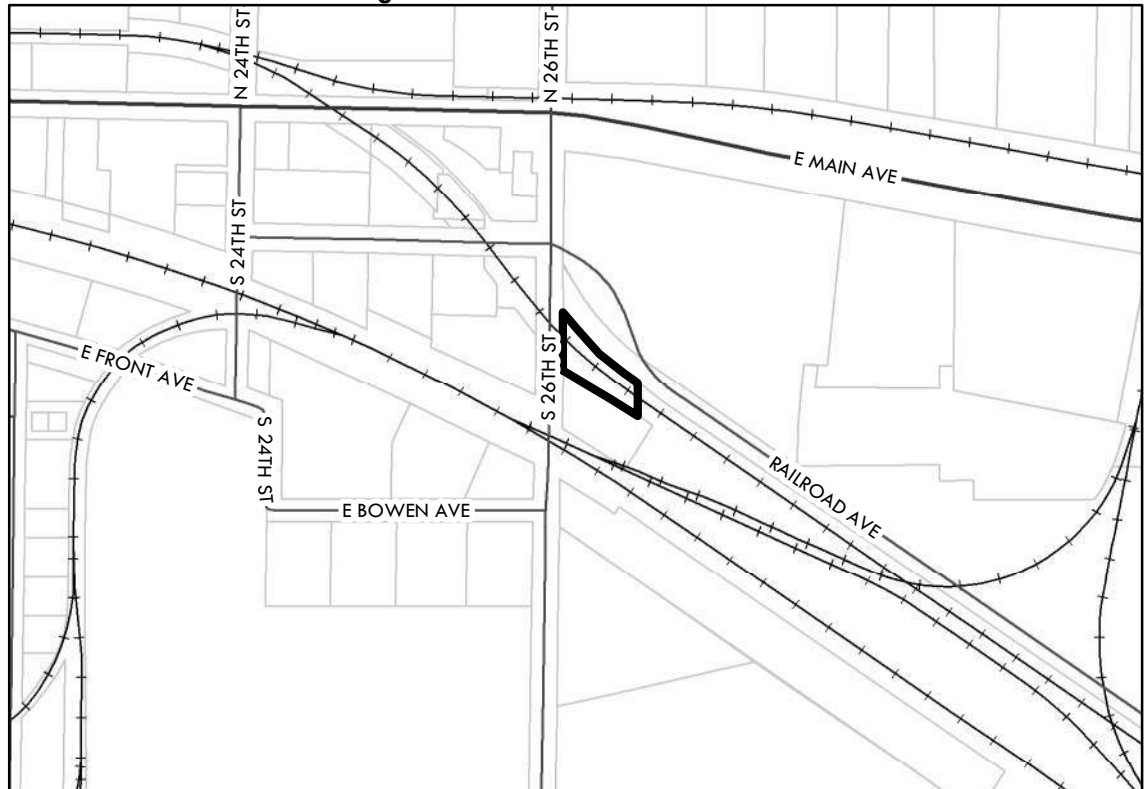
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.075 0.15 0.3 Miles

City Limits

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City of Bismarck
Community Development Dept.
Planning Division
June 22, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 3

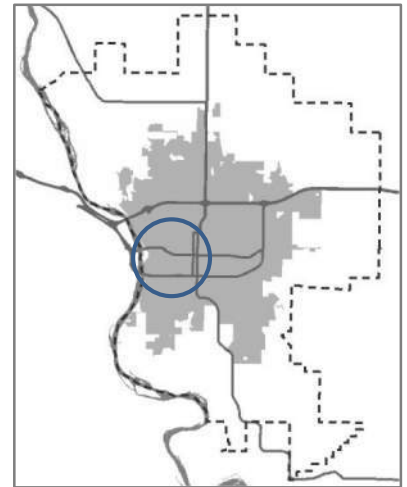
June 28, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-011

Project Summary

Title:	Lots 1-6, Block 81, all of Block 88, and all of the vacated Avenue F adjacent to Blocks 81 and 88, Monson's Subdivision and Lots 9-24, Block 81, McKenzie and Coffin's Addition (St. Mary's Central High School Property)
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Light of Christ Catholic Schools
Project Contact:	Brad Krogstad, PE KLJ
Location:	In central Bismarck between East Boulevard Avenue and East Avenue E, along the west side of North 3 rd Street
Project Size:	5.86 acres, more or less
Request:	Rezone property to allow for a combination of existing parcels.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	3 parcels	Number of Lots:	3 parcels
Land Use:	Private school and associated uses	Land Use:	Private school and associated uses
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	RM30 – Residential RT – Residential	Zoning:	Conditional RT – Residential
Uses Allowed:	RM30 – Multi-family residential RT – Offices and multi-family residential	Uses Allowed:	Conditional RT – Campus uses
Max Density Allowed:	RM30 – 30 units / acre RT – 30 units / acre	Max Density Allowed:	Conditional RT – Campus uses

Property History

Zoned:	12/1990 (northern portion of property) Pre-1980 (southern portion of property)	Platted:	Pre-1980	Annexed:	Pre-1980
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Staff Analysis

Approval of the proposed zoning change is being requested in order to bring the entire Saint Mary' Central High School property into one zoning district and to allow for the combination of the three separate parcels on site.

A zoning change to the Conditional RT – Residential zoning district would limit the proposed uses for the site to campus uses associated with Light of Christ Catholic Schools and the Bismarck Diocese and limit the overall height of buildings to no more than three stories in height. The conditional RT – Residential zoning district is intended to mirror the existing uses on site, provide flexibility for future uses associated with the Bismarck Diocese and limit uses commonly associated the RT – Residential zoning district that may negatively impact the adjacent residential neighborhood.

Adjacent uses include a retail facility to the north, office and multi-family uses to the east, and single and two-family residential uses to the south and west.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning

classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the RM30 – Residential zoning district and the RT – Residential zoning district to the Conditional RT – Residential zoning district for Lots 1-6, Block 81, all of Block 88, and all of the vacated Avenue F adjacent to Blocks 81 and 88, Monson's Subdivision and Lots 9-24, Block 81, McKenzie and Coffin's Addition.

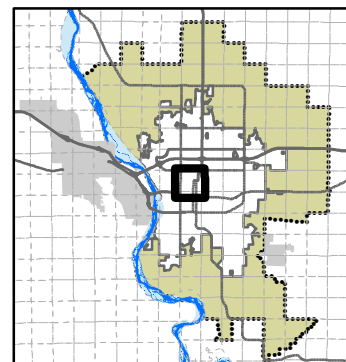
Attachments

1. Location Map
2. Zoning Map and Plan Reference Map

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



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Proposed Zoning Change (A to RR)

St. Mary's Central High School Property

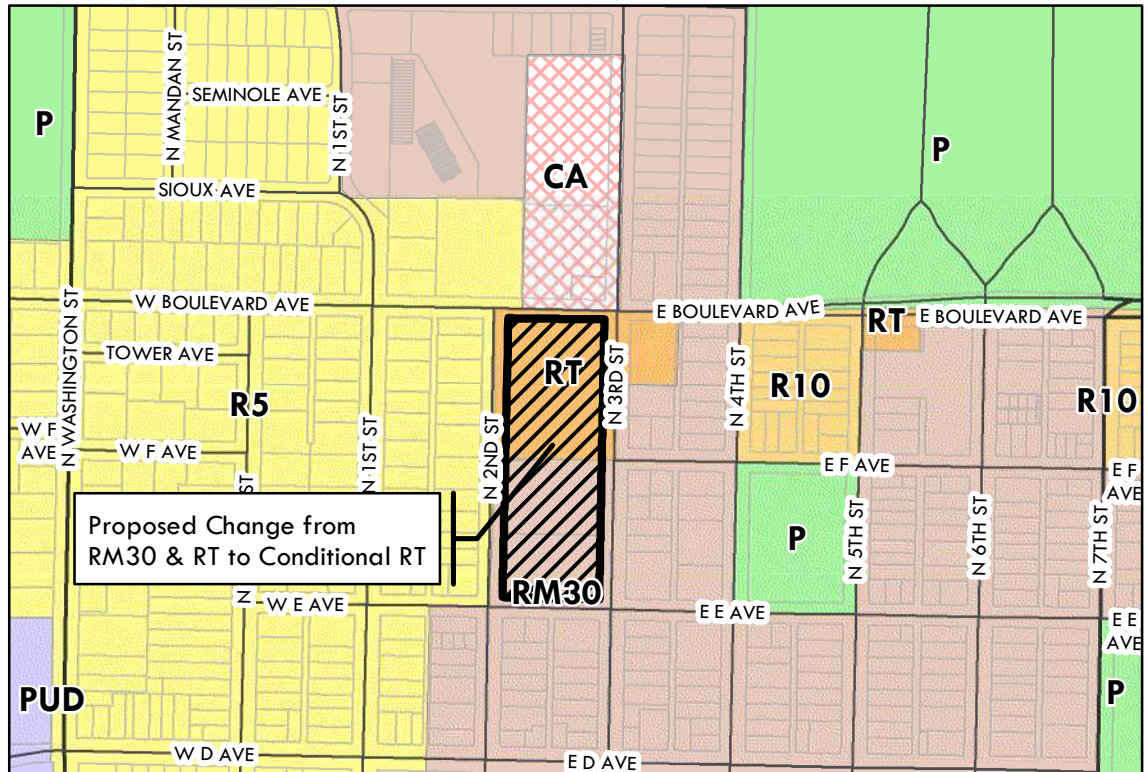
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

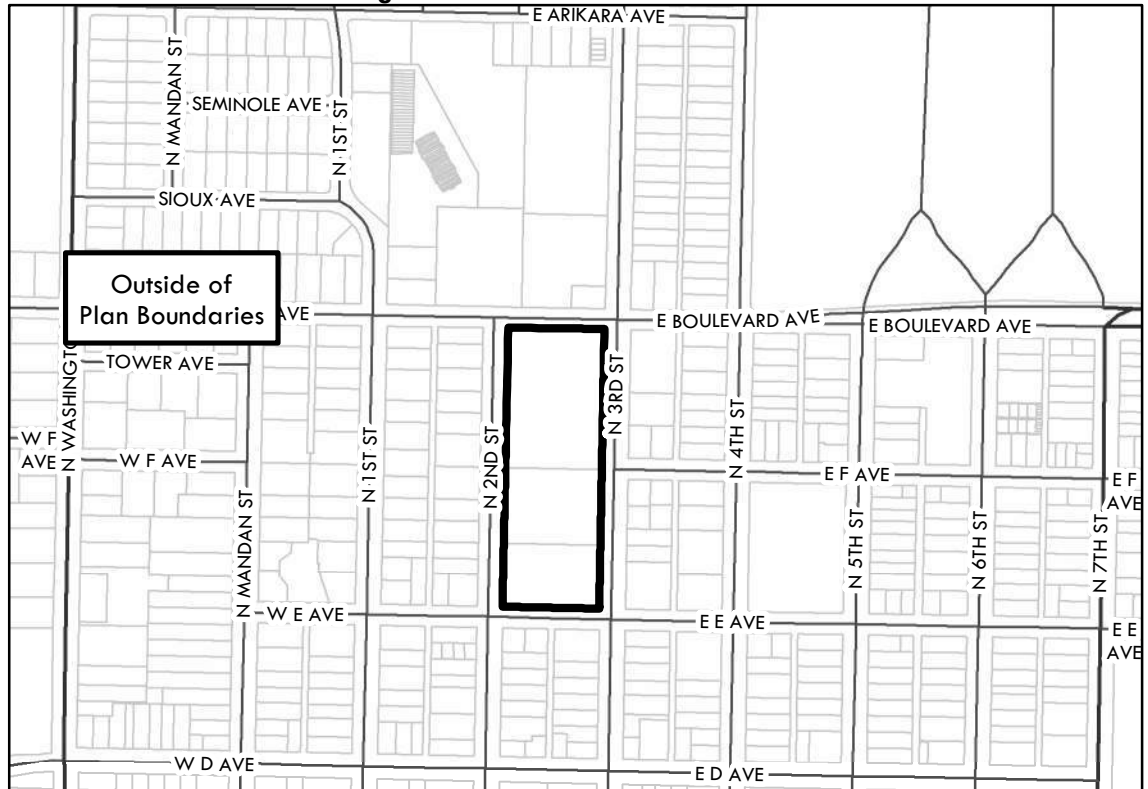
Zoning Map



Future Land Use Plan and Fringe Area Road Master Plan

Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.075 0.15 0.3 Miles

City Limits

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City of Bismarck
Community Development Dept.
Planning Division
June 21, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 4

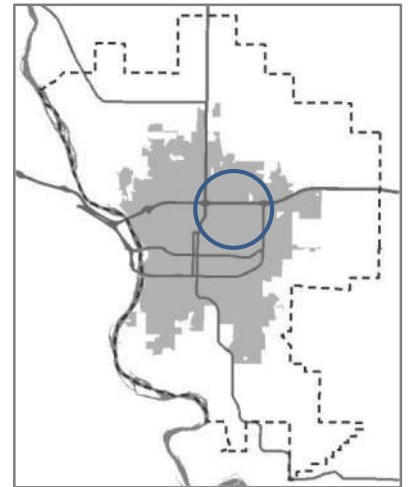
June 28, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-013

Project Summary

Title:	Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition (3032 Sleepy Hollow Loop and 3100 Sleepy Hollow Loop)
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Melvin and Jennifer Gallaway Tom and Sarah Fuller
Project Contact:	Jenny Wollmuth, CFM Planner
Location:	In northeast Bismarck, south of East Divide Avenue, south of North 33 rd Street, along the west side of Sleepy Hollow Loop.
Project Size:	29,594 square feet, more or less
Request:	City initiated action to rezone properties in order to bring entire properties into one zoning district.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 parcels	Number of Lots:	2 parcels
Land Use:	Single-family residential	Land Use:	Single-family residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential R10 – Residential	Zoning:	R10 – Residential
Uses Allowed:	R5 – Single-family residential R10 – Single and two-family residential	Uses Allowed:	R10 – Single and two-family residential
Max Density Allowed:	R5 – 5 units / acre R10 – 10 units / acre	Max Density Allowed:	R10 – 10 units / acre

Property History

Zoned:	04/2002 (SHH 2 nd) 07/2006 (SHH 5 th)	Platted:	04/2002 (SHH 2 nd) 07/2006 (SHH 5 th)	Annexed:	03/1998 (SHH 2 nd) 03/1998 (SHH 5 th)
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Staff Analysis

The property owners at 3032 Sleepy Hollow Loop recently inquired about the construction of an additional accessory building on their property. While meeting with the owners, staff discovered that their property as well as the property to the south, 3100 Sleepy Hollow Loop, were located in both the R5 – Residential zoning district and the R10 – Residential zoning district.

Both properties were zoned R10 – Residential when they were originally platted. Since then, each property owner has acquired property from an adjacent owner that is zoned R5 – Residential. Although a single-family dwelling is a permitted use within the R5 – Residential and R10 – Residential zoning districts, it is not permissible to have two separate zoning districts within one parcel. This City-initiated action will bring both properties into compliance with our requirements.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the R5 – Residential zoning district and the R10 – Residential zoning district to the R10 – Residential zoning district for Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and Lot 9, Block 4, Sleepy Hollow Heights 5th Addition, and Lot 1, Block 1, Sleepy Hollow Heights 2nd Addition and Lot 8 and Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition.

Attachments

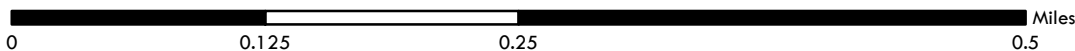
1. Location Map
2. Zoning Map and Plan Reference Map

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Zoning Change (R5 and R10 to R5)
Lot 6, Block 3, Sleepy Hollow Heights 2nd Addition and
Lot 9, Block 4, Sleepy Hollow Heights 5th Addition; and
Lot 1, Block 5, Sleepy Hollow Heights 2nd Addition and Lot 8 and
Auditor's Lot A of Lot 10, Block 4, Sleepy Hollow Heights 5th Addition

Project
Location Map



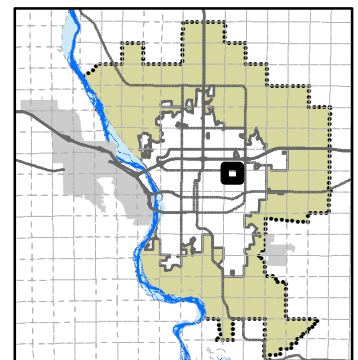
City Limits Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
June 8, 2017 (HLB)

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Proposed Zoning Change (A to RR)

Part of Sleepy Hollow Heights 2nd and 5th Additions

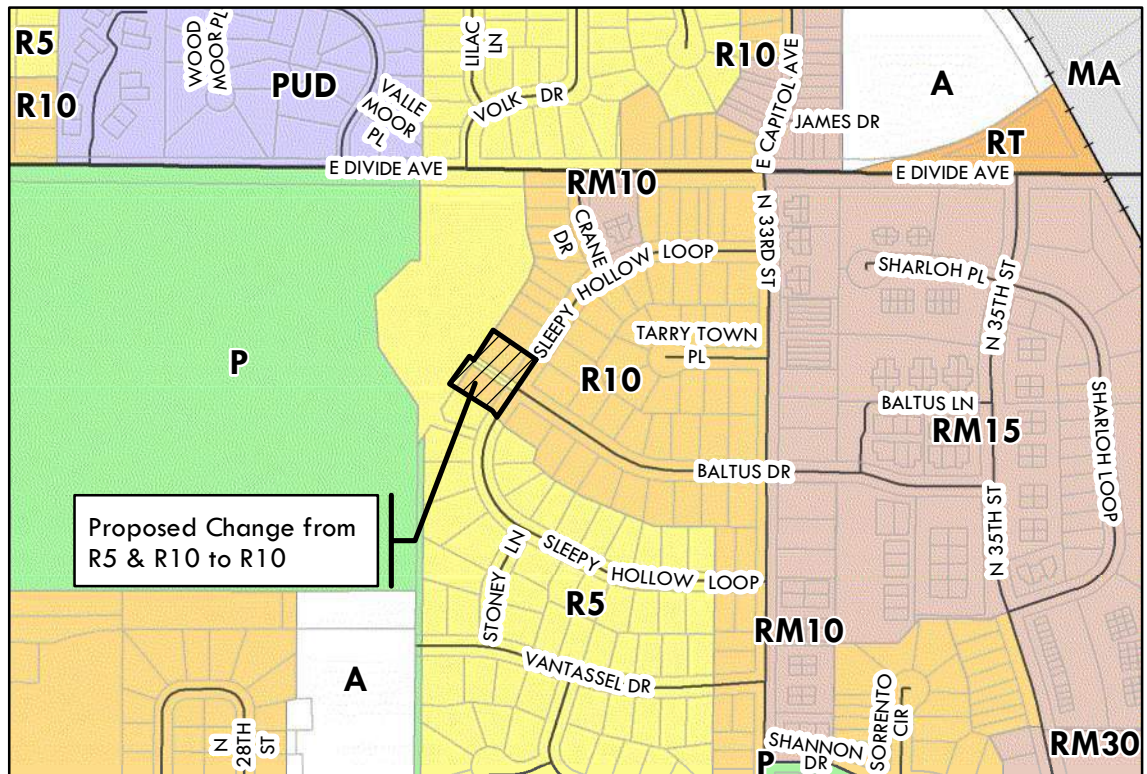
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

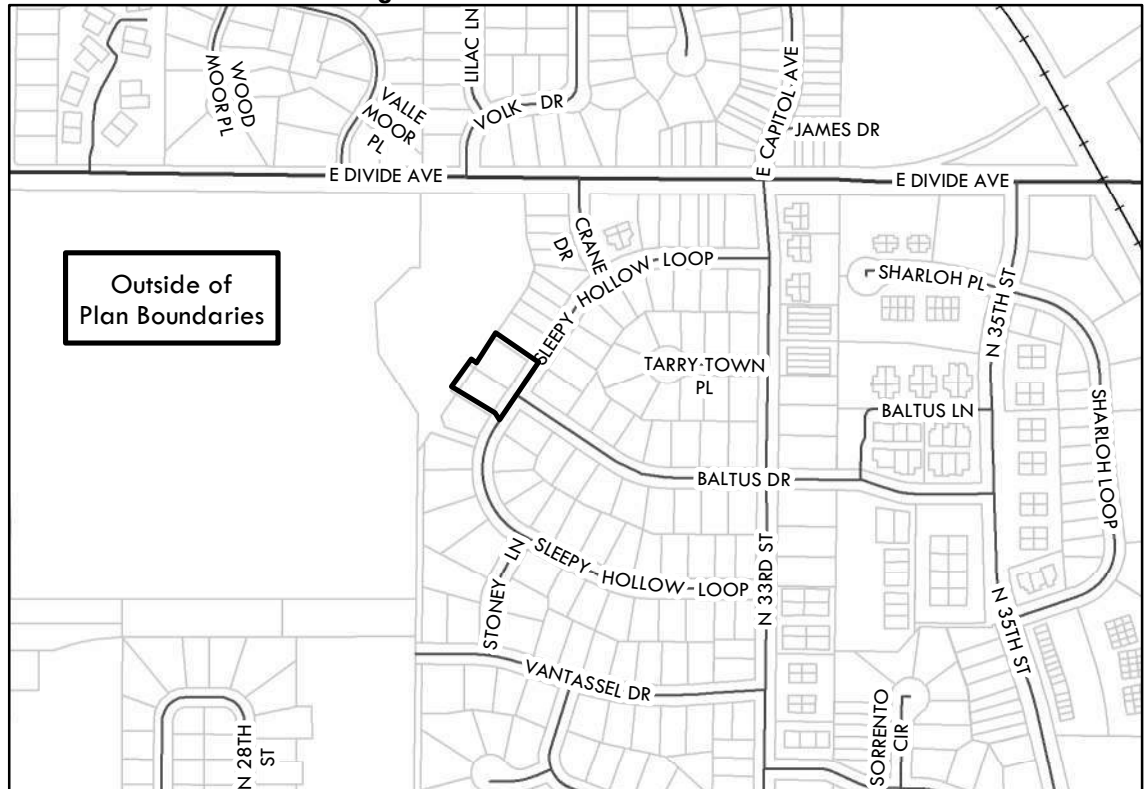
Zoning Districts

A	Agriculture
RR	Rural
	Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential
	Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

Zoning Map



Future Land Use Plan and Fringe Area Road Master Plan



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

0 0.075 0.15 0.3 Miles

City Limits

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City of Bismarck
Community Development Dept.
Planning Division
June 21, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 5

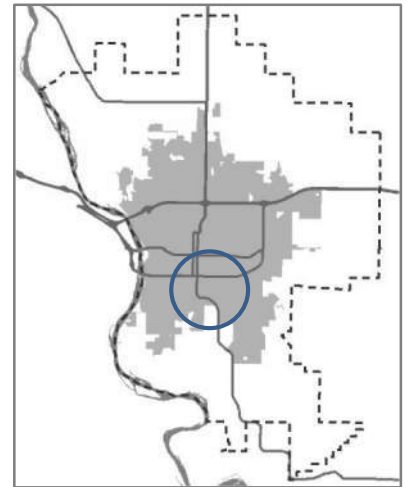
June 28, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-012

Project Summary

Title:	Lot 2, Block 1, Wachter's 17 th Addition and Lot 1, Block 1, Wachter's 18 th Addition
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Bismarck Motor Company, Inc.
Project Contact:	Richard Bohrer, Architectural Concepts
Location:	South Bismarck, along the south side of Bismarck Expressway between University Drive and South 12 th Street.
Project Size:	147,055 square feet/3.38 acres
Request:	Rezone property to allow the future construction of a multi-family residential development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 lots in 2 blocks	Number of Lots:	2 lots in 2 blocks
Land Use:	Undeveloped/Vacant	Land Use:	Undeveloped/Vacant
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	MA – Industrial	Zoning:	CG – Commercial
Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos	Uses Allowed:	CG – General commercial, multi-family residential, and offices
Max Density Allowed:	MA – N/A	Max Density Allowed:	CG – 42 units / acre

Property History

Zoned:	05/2012	Platted:	08/1979 (Wachter's 17 th) 04/1984 (Wachter's 18 th)	Annexed:	Pre-1980
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Staff Analysis

The applicant is requesting a zoning change from the MA – Industrial zoning district to the CG – Commercial zoning district to allow the future development of multi-family residential on the property. The zoning of the property was changed from CG – Commercial to MA – Industrial in May 2012 in conjunction with the rezoning of adjacent parcels. At the time, the property was used as a temporary/ overflow sales lot for Bismarck Motor Company, which was a permitted use in both the CG and MA zoning districts. However, now that Bismarck Motor Company has moved from the site, changing the zoning of these properties back to CG – Commercial would allow the transfer of the property and the development of more compatible land uses in this location.

Adjacent land uses include a variety of commercial uses to the north and east and a manufactured home park to the south and west.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning

classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

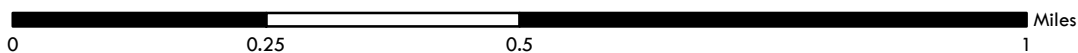
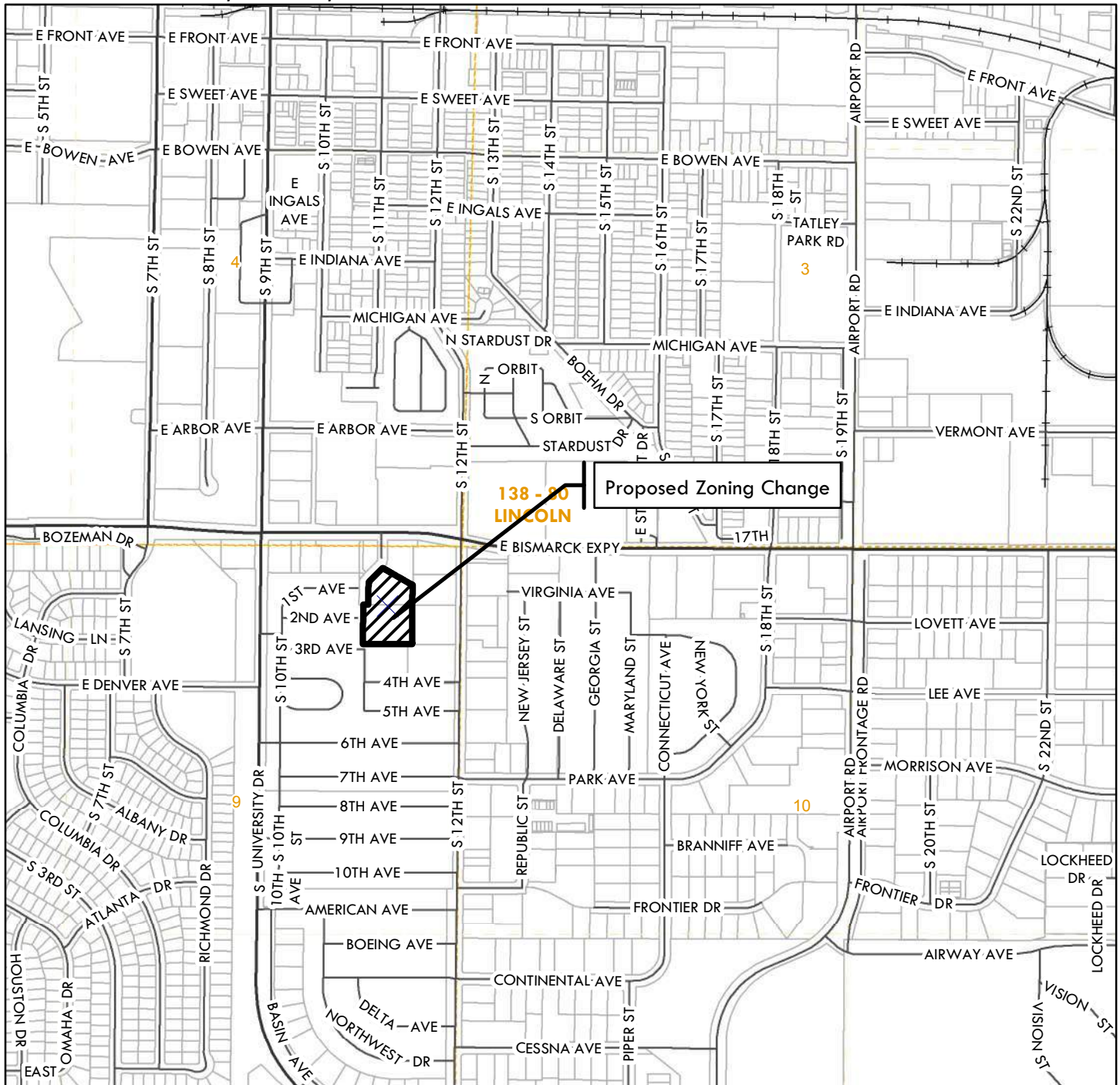
Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the MA – Industrial zoning district to the CG – Commercial zoning district on Lot 2, Block 2, Wachter's 17th Addition and Lot 1, Block 1, Wachter's 18th Addition.

Attachments

1. Location Map
2. Zoning and Plan Reference Map

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

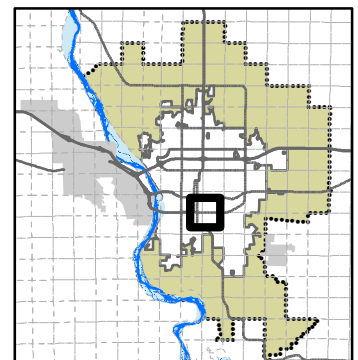


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
May 26, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.



Proposed Zoning Change (MA to CG)

Lot 2, Block 2, Wachter's 17th Add. and Lot 1, Block 1, Wachter's 18th Add.

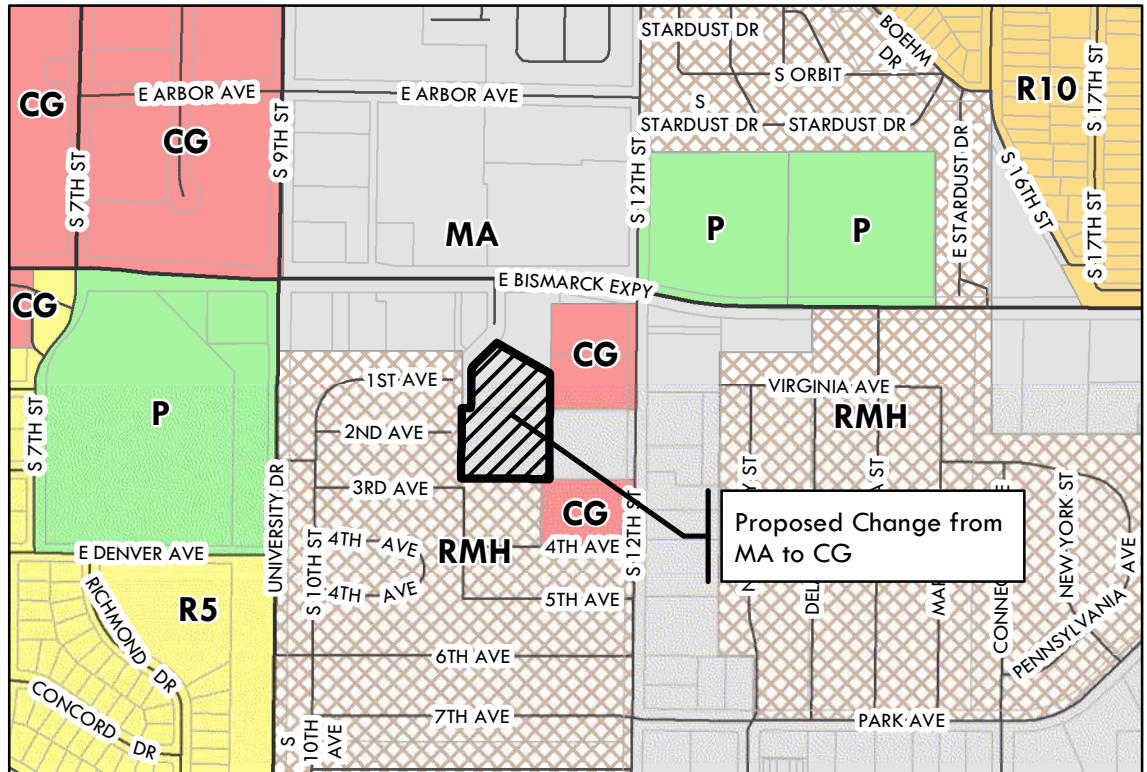
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

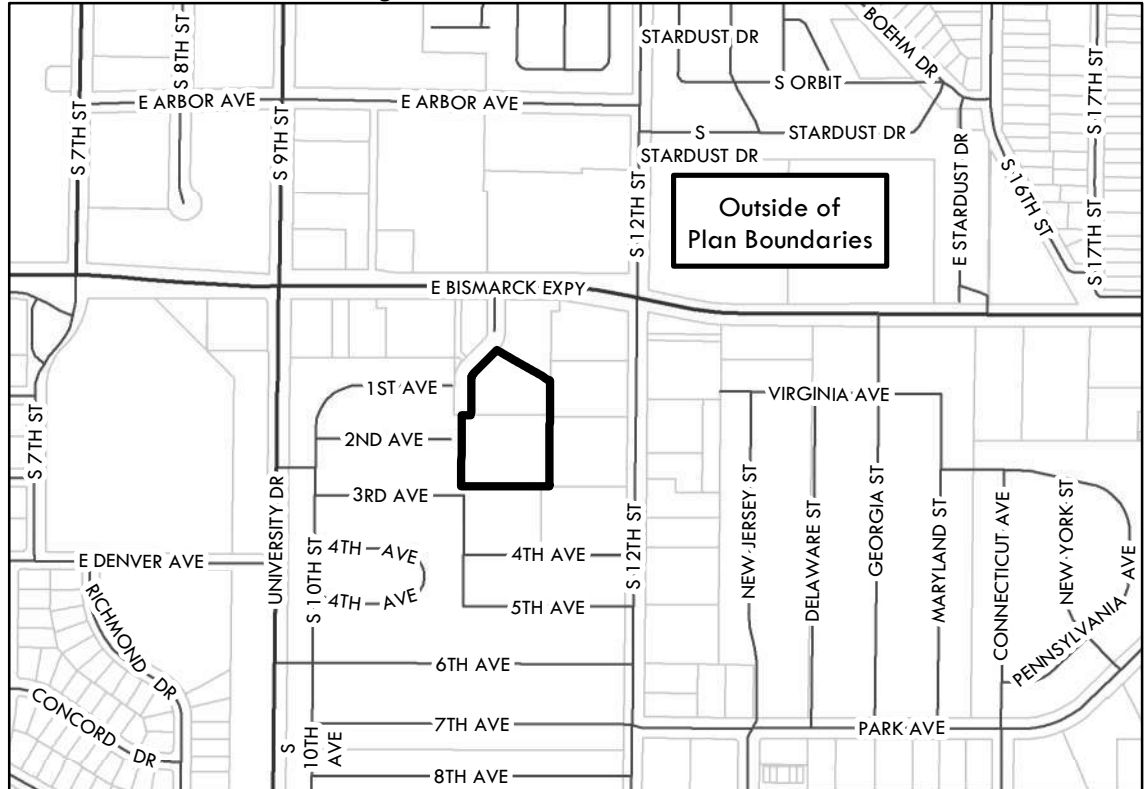
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.1 0.2 0.4 Miles

City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
June 21, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 6

June 28, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-005

Project Summary

Title:	Keeping of Chickens in the Rural Residential Districts
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Will Hutchings, Planner
Sections Amended:	Section 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District) and 14-04-01.1 (RR5 Residential District).
Request:	Amend zoning ordinance to allow the keeping of chickens in the rural residential zoning districts.

Staff Analysis

At the May 24, 2017 meeting of the Planning and Zoning Commission, staff indicated that the Planning Division has received requests to allow chickens in rural residential zoning districts. The general consensus of those present at the meeting was for staff to investigate and draft an ordinance amendment for consideration.

As proposed, this amendment would only apply to the RR & RR5 – Residential zoning districts. Most of the RR and RR5 – Residential zoning districts lots are located outside the corporate limits. Section 03-01-02 (Restrictions of the Keeping and Raising of Animals and Fowl) of the City Code of Ordinances prohibits the keeping of chickens on rural residential lots inside the City limits.

In determining requirements for the keeping of chickens, staff consulted a variety of resources including the North Dakota State Veterinarian, NDSU Burleigh County Extension Agents, Bismarck-Burleigh Public Health Officials, and staff from other cities who permit the keeping of chickens in residential areas. Based on research performed, the draft zoning ordinance text amendment includes the following requirements for the keeping of chickens in the rural residential zoning districts:

- Only female chickens (hens) will be permitted. Male chickens (roosters) are prohibited.

- A limit of 10 chickens is proposed. The limit on the number of chickens is based on an average hen's rate of egg production and typical family size, as well as the impact of chickens on surrounding properties.
- All chickens must be kept in a fenced area.
- All coops to support the keeping of chickens must comply with all applicable setbacks and size limitations for allowable accessory structures and must be located no less than 150 feet from a neighboring residential dwelling.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and

(continued)

4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

01.1 (RR5 Residential District) of the Bismarck Code of Ordinances related to the keeping of chickens in rural residential zoning districts.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning ordinance text amendment for Sections 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District) and 14-04-

Attachments

1. Draft zoning ordinance amendment

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-06, 14-04-01 and 14-04-01.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO INCIDENTAL USES, THE RR RESIDENTIAL DISTRICT, THE RR5 RESIDENTIAL DISTRICT, AND THE KEEPING OF CHICKENS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Incidental Uses.

14-03-06. Incidental Uses. Permitted uses and approved special uses shall be deemed to include accessory uses and accessory structures that are customarily incidental to the principal use, subject to the following standards:

1. Accessory Uses and Buildings.

a. General Requirements. Accessory uses and buildings shall comply with the following standards and all other applicable regulations of this chapter:

1. The accessory use or building shall be incidental and customarily associated with the principal use or structure.

2. Except for accessory buildings for one and two-family residential uses constructed in accordance with the provisions of Section 14-03-06(1)(b), the accessory use or building shall be subordinate in area, extent, and purpose to the principal use or building served.

3. The accessory use or building shall contribute to the comfort, convenience and necessity

of the occupants of the principal use or building served.

4. The accessory use or building shall be located on the same zoning lot as the principal use or building.

5. The accessory use or building shall not be injurious to the use and enjoyment of surrounding properties.

6. No accessory building shall be located within any recorded public easement or over any known public utility.

b. One and two-family residential accessory uses and buildings.

1. Accessory uses and buildings commonly associated with residential uses include recreational activities, raising of pets, hobbies and parking of occupants' vehicles.

2. Customary domestic pets are allowed in accordance with the provisions of Title 3 of the Bismarck Code of Ordinances, but not including horses, poultry or agricultural livestock except as allowed in Sections 14-04-01, 14-04-0201.1 or 14-04-17 of this ordinance. No more than three (3) dogs or cats, four months of age or older are allowed.

3. Private swimming pools are allowed in accordance with the provisions of Chapter 4-06 of the City Code of Ordinances.

4. All allowable accessory buildings for a one or two-family residence in an urban residential zoning district (R5, R10, RM, RMH & RT) shall be limited to a maximum area of twelve hundred (1,200) square feet, a maximum wall height of twelve (12) feet and a maximum building height of twenty-five (25) feet.

Accessory buildings for the above computations shall include the following buildings: barns, stables, coops, storage buildings, and detached garages.

Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.

5. All allowable accessory buildings for a single-family rural residence in a rural residential zoning district (RR & RR5) shall be limited to a maximum area of fourteen hundred (1,400) square feet for lots of 40,000 square feet or less; to a maximum area of eighteen hundred (1,800) square feet for lots between 40,000 square feet and 64,999 square feet; to a maximum area of twenty-four hundred (2,400) square feet for lots over 65,000 square feet, except as provided for herein. The maximum wall height shall be limited to fourteen (14) feet and the maximum building height shall be limited to twenty-five (25) feet.

The allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with 40,000 to 64,999 square feet in area may be increased to a maximum of twenty-four hundred (2,400) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

The allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with more than 65,000 square feet in area may be increased to a maximum of thirty-two hundred (3,200) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

Accessory buildings for the above computations shall include the following buildings: barns, stables, **coops**, storage buildings, and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling

portion of the principal structure to which it is attached.

* * * * *

Section 2. Amendment. Section 14-04-01 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to zoning district regulations for the RR Residential District.

14-04-01. RR Residential District. In any RR residential district, the following regulations shall apply:

* * * * *

2. Uses permitted. The following uses are permitted.

a. Single-family dwellings.

b. Education group.

c. Public recreational group.

d. Private riding stables provided that animals shall be used for private use only; that no animal, animal stable, barn or shelter shall be located within one hundred (100) feet of any neighboring residence or structure; that two (2) horses shall be permitted on any premises which contains at least two (2) acres and additional horses shall be allowed at the rate of one horse for every additional three (3) acres of property owned. For the purposes of this ordinance the definition of a horse will be only those horses that are one calendar year of age or older and a miniature horse shall be defined as a horse less than 50 inches high measured at the withers. For the purpose of calculating the number of horses allowed under this section, a miniature horse shall be deemed to be the equivalent of .66 of a horse.

e. Chicken Hens and Coops, provided that the animals are kept for private use only; that no male chickens (roosters) are kept; all hens are kept in a fenced area; all coops and structures meet applicable setbacks and size limitations for allowable accessory structures and are not located less than 150 feet of any neighboring residence or structure; and that no more than ten (10) chickens shall be permitted.

f. Animal husbandry activity or project conducted primarily for educational purposes or school credits, provided such activities are not conducted for commercial purposes and the premises are maintained in a sanitary manner.

eg. Family foster home for adults.

gh. Family child care.

* * * * *

10. Accessory Buildings. All allowable accessory buildings for a single-family residence shall be limited to a maximum of fourteen hundred (1,400) square feet for lots of 40,000 square feet or less; to a maximum of eighteen hundred (1,800) square feet for lots between 40,000 square feet and 64,999 square feet; and to a maximum of twenty-four hundred (2,400) square feet for lots over 65,000 square feet, except as provided herein. The maximum wall height shall be limited to fourteen (14) feet and the maximum building height shall be limited to twenty-five (25) feet.

The allowable accessory buildings for a single-family rural residence on a lot with 40,000 to 64,999 square feet in area may be increased to a maximum of twenty-four hundred (2,400) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

The allowable accessory buildings for a single-family rural residence on a lot with more than 65,000 square feet in area may be increased to a maximum of thirty-two hundred (3,200) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

Accessory buildings for the above computations shall include the following buildings: barns, stables, coops, storage buildings, and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.

Section 3. Amendment. Section 14-04-01.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to zoning district regulations for the RR5 Residential District.

14-04-01.1. RR5 Residential District. In any RR5 residential district, the following regulations shall apply:

* * * * *

2. Uses permitted. The following uses are permitted.

a. Single-family dwellings.

b. Education group.

c. Public recreational group.

d. Private riding stables provided that animals shall be used for private use only; that no animal, animal stable, barn or shelter shall be located within one hundred (100) feet of any neighboring residence or structure; that three (3) horses shall be permitted on any premises which contains at least five (5) acres and additional horses shall be allowed at the rate of one (1) horse for every additional three (3) acres of property owned. For the purposes of this ordinance the definition of a horse will be only those horses that are one calendar year of age or older and a miniature horse shall be defined as a horse less than 50 inches high measured at the withers. For the purpose of calculating the number of horses allowed under this section, a miniature horse shall be deemed to be the equivalent of .66 of a horse.

e. Chicken Hens and Coops, provided that the animals are kept for private use only; that no male chickens (roosters) are kept; all hens are kept in a fenced area; all coops and structures meet applicable setbacks and size limitations for allowable accessory structures and are not located less than 150 feet of any neighboring residence or structure; and that no more than ten (10) chickens shall be permitted.

f. Animal husbandry activity or project conducted primarily for educational purposes or school credits, provided such activities are not conducted for

commercial purposes and the premises are maintained in a sanitary manner.

eg. Family foster home for adults.

gh. Family child care.

* * * * *

11. Accessory Buildings. All allowable accessory buildings for a single-family rural residence shall be limited to a maximum of thirty-two hundred (3,200) square feet. The maximum wall height shall be limited to fourteen (14) feet and the maximum building height shall be limited to twenty-five (25) feet.

Accessory buildings for the above computations shall include the following buildings: barns, stables, coops, storage buildings and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 7

June 28, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-006

Project Summary

Title:	Special Uses, RT Residential District and Drive-in/Drive-through Facilities for Banks
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Section 14-03-08 (Special Uses) and 14-04-08 (RT Residential District)
Request:	Amend the Zoning Ordinance to allow drive-in/drive-through facilities for banks in the RT – Residential zoning district if located adjacent to an arterial roadway.

Staff Analysis

There are several areas within the community that are zoned RT – Residential and located adjacent to an arterial roadway. Banks are currently allowed as a permitted use within the RT – Residential zoning district, but a drive-in/drive-through facility for a bank is not allowed in that zoning district. As most, if not all, banks have a need for drive-in/drive-through facilities, it seems reasonable to allow such facilities in locations adjacent to arterial roadways. Also, with the advent of on-line banking, the presence of a drive-in/drive-through facility for a bank is expected to have less traffic than in the past and would have less impact on adjacent uses, especially if they are only allowed adjacent to an arterial roadway.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance

was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;

3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning ordinance text amendment for Section 14-03-08 (Special Uses) and Section 14-04-08 (RT Residential District) of the City Code of Ordinances, as attached in the draft ordinance.

Attachments

1. Draft zoning ordinance text amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-03-08 AND 14-04-08 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SPECIAL USES, THE RT RESIDENTIAL DISTRICT AND DRIVE-IN/DRIVE-THROUGH FACILITIES FOR BANKS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-10 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses is hereby amended and re-enacted to read as follows:

14-03-08. Special Uses.

* * * * *

4. Permanent uses (planning and zoning commission approval). The city planning and zoning commission is authorized to grant special use permits for the following uses:

* * * * *

g. Drive-in/drive-through retail or service establishments. An establishment dispensing goods at retail or providing services through a drive-in/drive-through facility, including, but not limited to drive-in/drive-through restaurants, banks or other drive-in/drive-through facilities, exclusive of theatres, ~~may be permitted~~ in a CG, MA or HM district; ~~drive-in/drive-through facilities for banks and drive-in/drive-through windows for pharmacies as an ancillary use to a medical office/clinic only may also be permitted~~ in a CA district); ~~and drive-in/drive-through facilities for banks only in the RT district, only when~~

located adjacent to an arterial roadway, may be permitted as a special use provided:

1. The lot area, lot width, front yard, side yards, rear yard, floor area and height limit of the structure and its appurtenances shall conform to the requirements of the district in which it is located.

2. Access to and egress from a drive-in/drive-through establishment shall be arranged for the free flow of vehicles at all times, so as to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing or backing of vehicles on sidewalks or streets.

3. Adequate off-street parking shall be provided in conformance with section 14 03 10 of this ordinance. In addition, vehicle stacking spaces shall be provided on the premises in accordance with section 14 03 10 of this ordinance, in addition to all common ingress and egress areas provided.

4. Ingress and egress points shall be maintained at not less than sixty (60) feet from an intersecting street corner of arterial or collector streets, and not less than forty (40) feet from an intersecting street corner on local street.

5. All access and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is no greater than its width at the curb, excluding any curved or tapered section known as the curb return. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway. All curb cuts, widths and other specifications shall comply with the standards established by the city engineer.

6. On a corner lot no fence, wall, terrace, structure, shrubbery or automobile shall be parked or other obstruction to vision having a height greater than three (3) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property lines.

* * * * *

Section 1. Amendment. Section 14-04-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RT Residential District is hereby amended and re-enacted to read as follows:

14-04-08. RT Residential District. In any RT residential district the following regulations shall apply:

* * * * *

2. Uses permitted. The following uses are permitted.

a. A single or two-family living unit when used in conjunction with a commercial use.

b. Multifamily dwelling.

c. Group dwelling.

d. Education group.

e. Health and medical group.

f. Public recreation group.

g. Office-bank group.

h. Row houses. Attached single-family dwelling in groups of not more than eight (8) nor less than three (3) dwelling units in one building, or in groups of not more than eight (8) or less than two (2) dwelling units when constructed as part of an overall row house development with at least three (3) buildings.

1) Density. The maximum allowable density is sixteen (16) families per net acre.

2) Lot area.

a) Lot and yard requirement regulations for row house use. Each attached single-family dwelling hereafter erected shall conform to the following minimums:

	Interior	Interior End	Street Corners
Lot area in square feet	2,300	3,220	3,795
Lot width of front building line in feet	20	28	33
Depth of lot in feet	115	115	115
Depth of front yard in feet	25	25	25
Width of side yard in feet		10	25
Depth of rear yard in feet	20	20	20

3) Height regulations. The maximum height of any principal building shall be forty (40) feet.

4) Safety provision. Row houses shall have wall separations between each dwelling unit of at least a two hour fire rated wall which shall extend from the footing to and through the roof at least thirty (30) inches except as may be allowed by Chapter 5 of the city building code pertaining to area separation walls.

5) Access to rear yards. The required rear yard to each row dwelling shall have an unobstructed access to a public walkway at least four (4) feet wide extending to an alley or street.

6) Off street parking. Off street parking spaces shall be provided for each dwelling unit as provided under Section 14 03 10 of this ordinance.

i. Beauty shop, barber shop.

j. Ancillary retail sales of material products directly related to the primary business such as hair care products being sold at a beauty shop or barber shop. Such product display areas shall not occupy more than 25% (twenty-five percent) of the gross floor area of the primary business.

The following special uses are permitted as per Section 14 03 08 hereof:

a. Religious institution.

b. Child care center.

c. Mortuary/funeral homes.

d. Drive-in/drive-through facilities for a bank,
only if located adjacent to an arterial roadway.

* * * * *

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 8

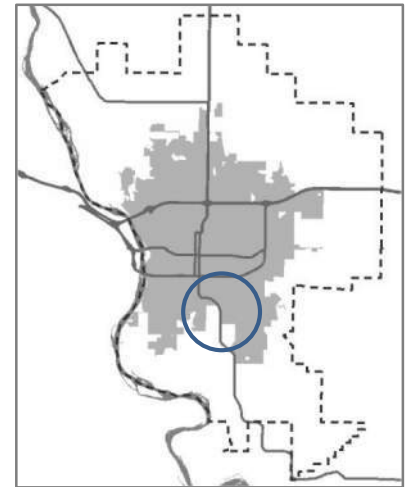
June 28, 2017

Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2017-003

Project Summary

Title:	Trillium Third Addition First Replat
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	DPS Properties, LLP
Project Contact:	Landon Neimiller, Swenson, Hagen & Company
Location:	In southeast Bismarck, in the southeast quadrant of the intersection of Rock Island Place and Burlington Drive (A replat of Lot 1 & Lot 2A of Lot 2, Block 2, Trillium Third Addition)..
Project Size:	10.96 acres
Request:	replat property to create two additional lots for future development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 parcel	Number of Lots:	3 lots in 1 block
Land Use:	Light Industrial	Land Use:	Light Industrial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	MA – Industrial	Zoning:	MA – Industrial
Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos	Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
Max Density Allowed:	MA – N/A	Max Density Allowed:	MA – N/A

Property History

Zoned:	Pre-1980	Platted:	07/2005 (Trillium Third Addition)	Annexed:	Pre-1980
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Staff Analysis

The proposed minor subdivision final plat is being requested to allow for the creation of two additional lots for future development.

Lot 1 of the proposed plat is currently under construction and a site plan for Lot 2 of the proposed plat has been submitted for staff review and approval.

The proposed plat is located within 10,000 feet of the operations area of the Bismarck Airport and is subject to the provisions of the FAA Advisory Circular 150/5200-33B Hazardous Wildlife Attractants on or Near Airports. A Hazardous Wildlife Opinion has been submitted in conjunction with the proposed plat and reviewed by the Bismarck Airport.

Required Findings of Fact (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The stormwater management plan for the subdivision has been approved by the City Engineer;

3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the minor subdivision final plat for Trillium Third Addition First Replat.

Attachments

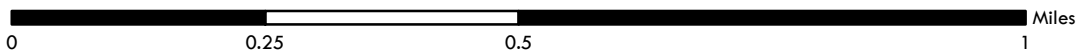
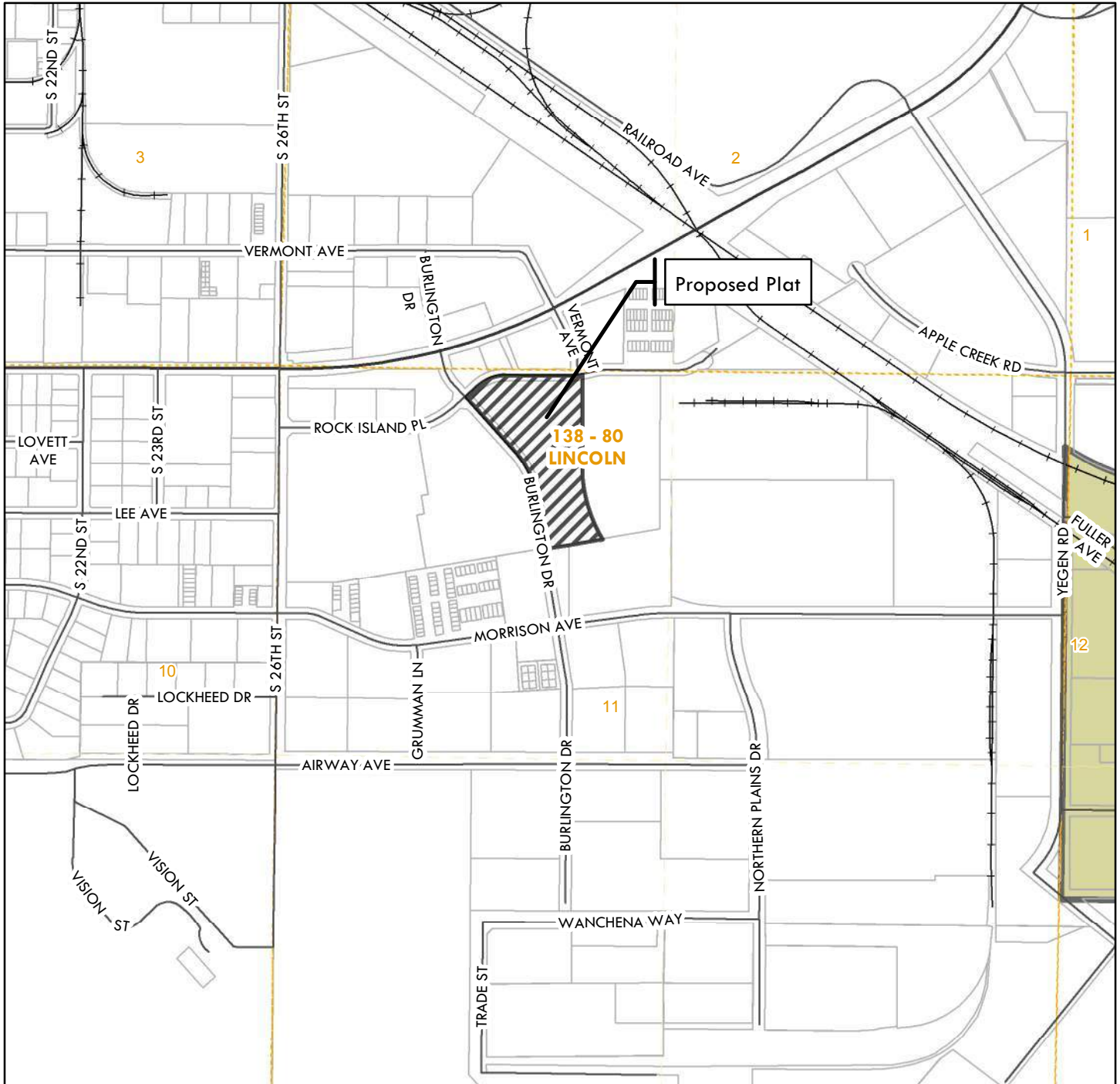
1. Location Map
2. Zoning Map and Plan Reference Map
3. Minor Subdivision Final Plat
4. Original Plat of Trillium 3rd Addition

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Minor Subdivision Final Plat Trillium Third Addition First Replat

Project
Location Map



City Limits



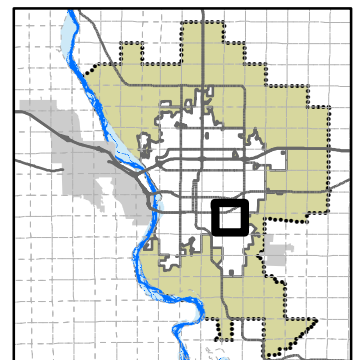
Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
June 9, 2017 (HLB)

This map is for representational use only and does
not represent a survey. No liability is assumed as
to the accuracy of the data delineated hereon.



DESCRIPTION

A REPLAT OF LOT 1 & LOT 2A OF LOT 2 BLOCK 2 TRILLIUM THIRD ADDITION AND PARTS OF ROCK ISLAND PLACE AND BURLINGTON DRIVE RIGHTS OF WAY, PART OF THE NW 1/4 OF SECTION 11, TOWNSHIP 138 NORTH, RANGE 80 WEST, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2B OF LOT 2 BLOCK 2 TRILLIUM THIRD ADDITION; THENCE SOUTH 80 DEGREES 41 MINUTES 59 SECONDS WEST, ALONG THE NORTH LINE OF LOTS 1 AND 2 BLOCK 2 TRILLIUM FOURTH ADDITION AND THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 397.35 FEET TO THE CENTERLINE OF BURLINGTON DRIVE RIGHT OF WAY; THENCE NORTH 09 DEGREES 19 MINUTES 11 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 387.89 FEET; THENCE NORTHWESTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 500.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 80 DEGREES 39 MINUTES 46 SECONDS WEST, AN ARC LENGTH OF 284.01 FEET; THENCE NORTH 41 DEGREES 52 MINUTES 37 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 518.47 FEET TO THE CENTERLINE OF ROCK ISLAND PLACE RIGHT OF WAY; THENCE NORTH 48 DEGREES 08 MINUTES 48 SECONDS EAST, ALONG SAID CENTERLINE, A DISTANCE OF 114.06 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, CONTINUING ALONG SAID CENTERLINE, ON A 275.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 41 DEGREES 49 MINUTES 51 SECONDS EAST, AN ARC LENGTH OF 202.31 FEET; THENCE SOUTH 89 DEGREES 42 MINUTES 20 SECONDS EAST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 436.65 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 400.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS NORTH 00 DEGREES 20 MINUTES 15 SECONDS EAST, AN ARC LENGTH OF 80.57 FEET TO THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 2B OF LOT 2 TRILLIUM THIRD ADDITION; THENCE SOUTH 00 DEGREES 16 MINUTES 45 SECONDS WEST, ALONG SAID NORTHERLY EXTENSION AND SAID WEST LINE, A DISTANCE OF 606.86 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID WEST LINE, ON A 960.00 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 89 DEGREES 41 MINUTES 01 SECONDS EAST, AN ARC LENGTH OF 527.34 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 556,632 SF, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MATTHEW M. STERN, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON 2017, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA) SWENSON, HAGEN & CO. P.C.
COUNTY OF BURLEIGH) 909 BASIN AVENUE
BISMARCK, NORTH DAKOTA 58504
MATTHEW M. STERN
REGISTERED LAND SURVEYOR
N.D. REGISTRATION NO. 8299

ON THIS DAY OF 2017, BEFORE ME PERSONALLY APPEARED MATTHEW M. STERN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN
CARL D. HOKENSTAD - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE DAY OF 2017.

ATTEST
KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "TRILLIUM THIRD ADDITION FIRST REPLAT", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT DPS PROPERTIES, LLP, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "TRILLIUM THIRD ADDITION FIRST REPLAT", BISMARCK, NORTH DAKOTA, AND DO SO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

STATE OF NORTH DAKOTA) DPS PROPERTIES, LLP
COUNTY OF BURLEIGH) 2121 TRAYNOR LN
BISMARCK, ND 58504

ON THIS DAY OF 2017, BEFORE ME PERSONALLY APPEARED OF DPS PROPERTIES, LLP, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

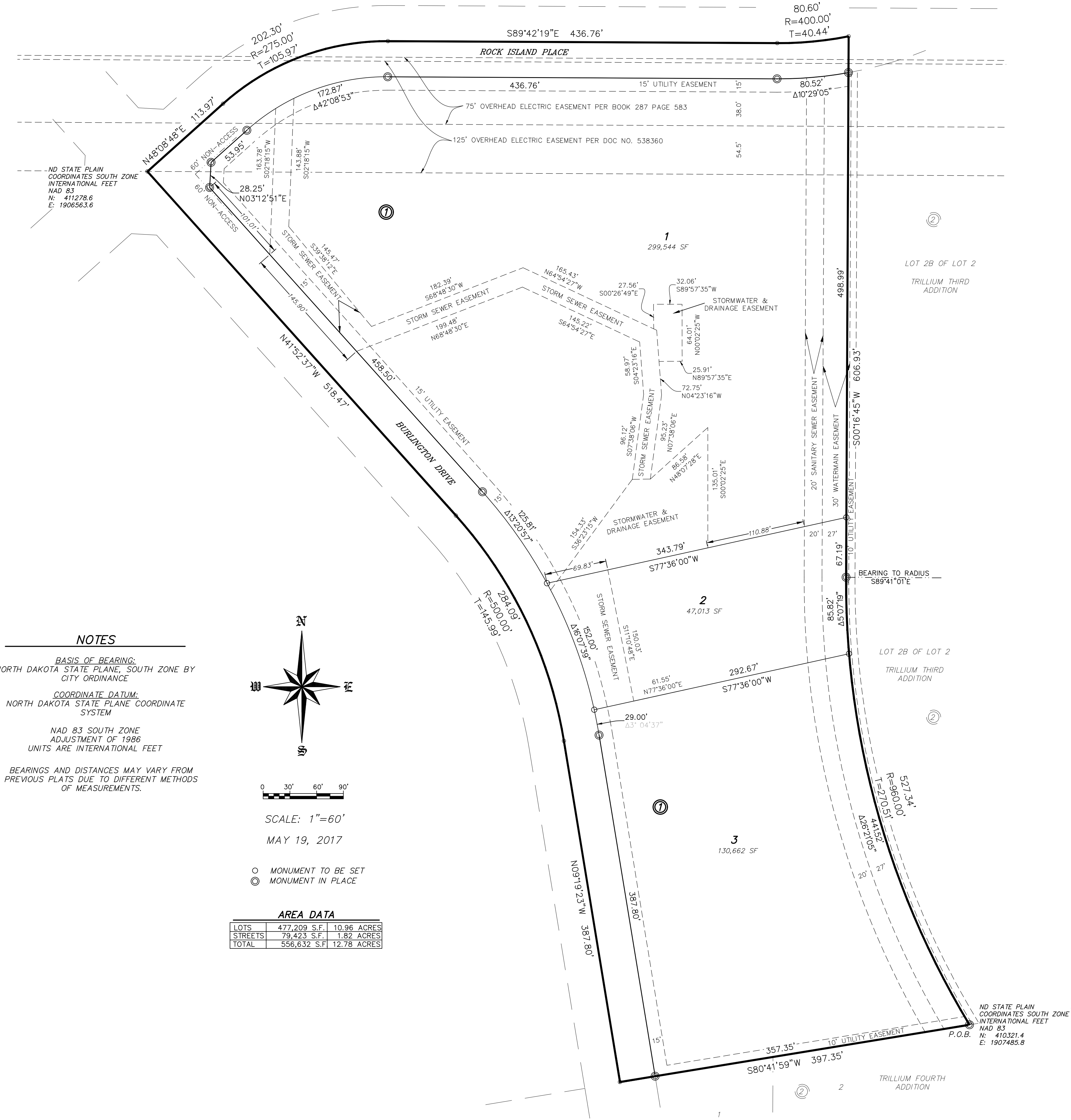
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES

TRILLIUM THIRD ADDITION FIRST REPLAT

BEING A REPLAT OF LOT 1 & LOT 2A OF LOT 2 BLOCK 2 TRILLIUM THIRD ADDITION AND PARTS OF ROCK ISLAND PLACE AND BURLINGTON DRIVE RIGHTS OF WAY

PART OF THE NW 1/4 OF SECTION 11, T 138 N., R 80 W.

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



SWENSON, HAGEN & COMPANY P.C.
909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223-2800
Fax (701) 223-2806

Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 9

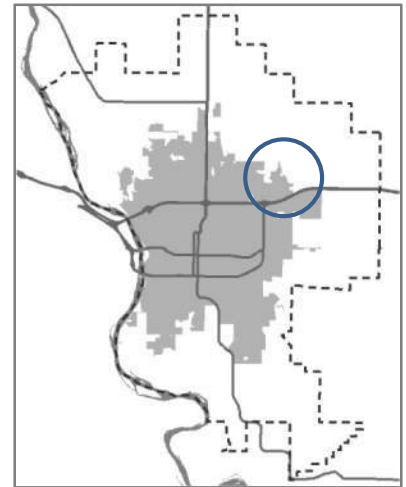
June 28, 2017

Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2017-007

Project Summary

<i>Title:</i>	Trenton 2nd Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Trenton Street Partners, LLP
<i>Project Contact:</i>	Mark Swenson, PE, Swenson Engineering
<i>Location:</i>	In northeast Bismarck, north of Interstate 94 and west of Centennial Road, along the north side of Trenton Drive and the west side of Cumberland Loop (a replat of Lots 29-40, Block 2, Trenton Addition).
<i>Project Size:</i>	2.06 Acres
<i>Request:</i>	Replat 12 existing lots into 10 lots for the development of five – two-family residential buildings (10 units)



Site Information

Existing Conditions

<i>Number of Lots:</i>	12 lots in 1 block
<i>Land Use:</i>	Undeveloped
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	R10 – Residential
<i>Uses Allowed:</i>	R10 – Single and two-family residential
<i>Max Density Allowed:</i>	R10 – 10 units / acre

Proposed Conditions

<i>Number of Lots:</i>	10 lots in 1 block
<i>Land Use:</i>	Residential
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	R10 – Residential
<i>Uses Allowed:</i>	R10 – Single and two-family residential
<i>Max Density Allowed:</i>	R10 – 10 units / acre

Property History

<i>Zoned:</i>	1/22/2013	<i>Platted:</i>	04/01/13	<i>Annexed:</i>	04/01/13
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Staff Analysis

The applicant is requesting approval of a minor subdivision final plat titled Trenton 2nd Addition. The plat would include ten lots, and the developer intends

to construct five (5) two-family residential dwelling units. The replat is being requested to support a change in site development so that all units may be oriented to face Cumberland Loop with shared driveways.

(continued)

The adjacent land uses include single family residential to the west, storage facilities to the north, multi-family residential to the east adjacent to and across Cumberland Loop, and undeveloped commercially zoned to the south across Trenton Drive.

Required Findings of Fact (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The requirement to provide a stormwater management plan has been waived by the City Engineer;
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and

5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the minor subdivision final plat for Trenton 2nd Addition.

Attachments

1. Location Map
2. Zoning and Plan Reference Map
3. Final Plat
4. Original plat of Trenton Addition

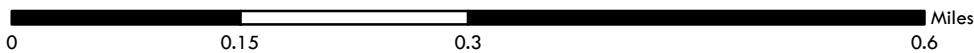
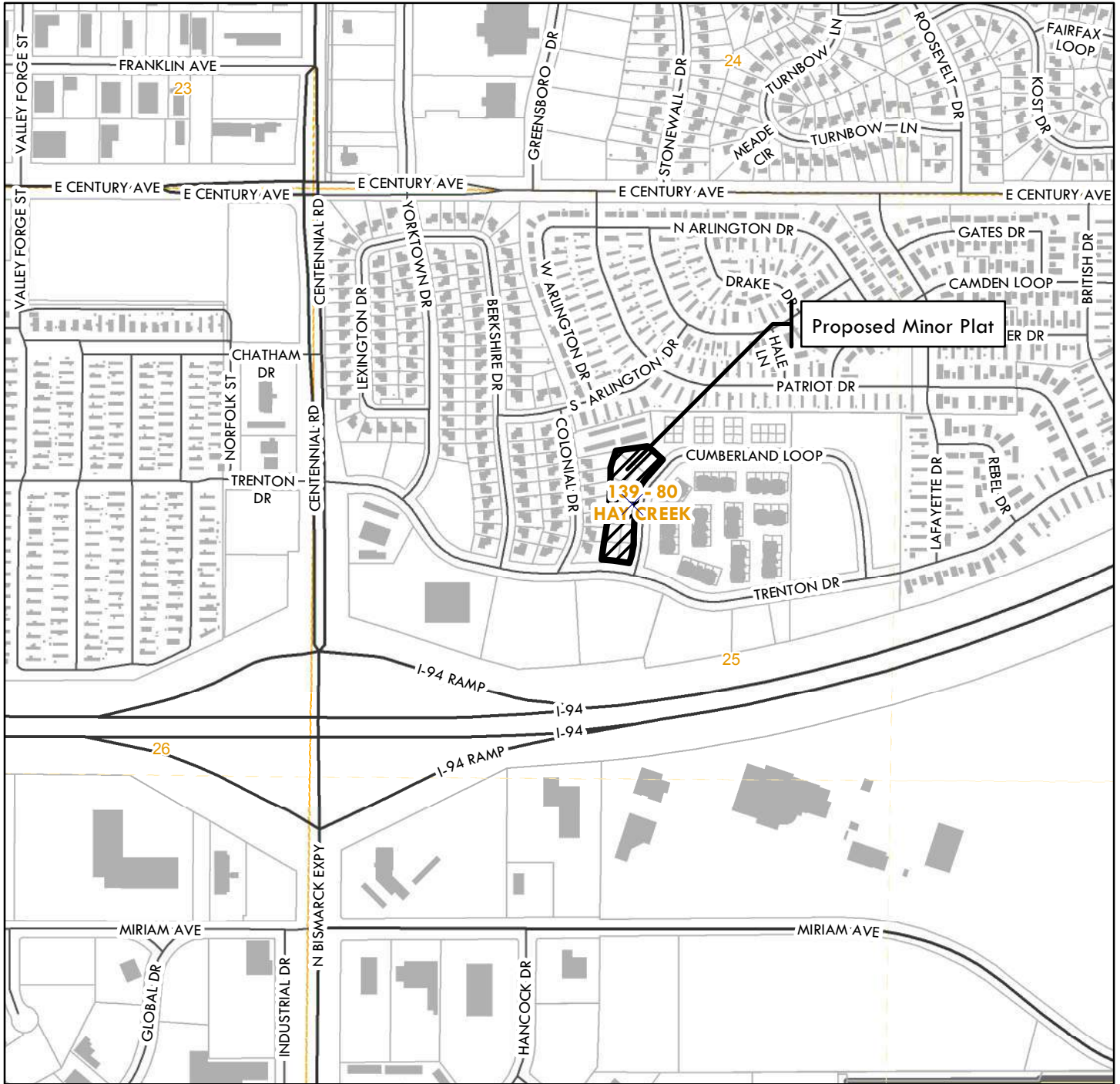
Staff report prepared by: Will Hutchings, Planner

701-355-1850 | whutchings@bismarcknd.gov



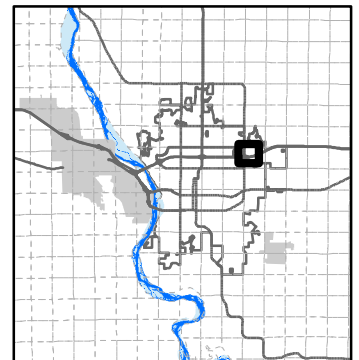
Proposed Minor Subdivision Final Plat Trenton 2nd Addition

Project
Location Map



City Limits Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
May 30, 2017 (HLB)

This map is for representational use only and does
not represent a survey. No liability is assumed as
to the accuracy of the data delineated hereon.



Proposed Minor Subdivision Final Plat

Trenton 2nd Addition

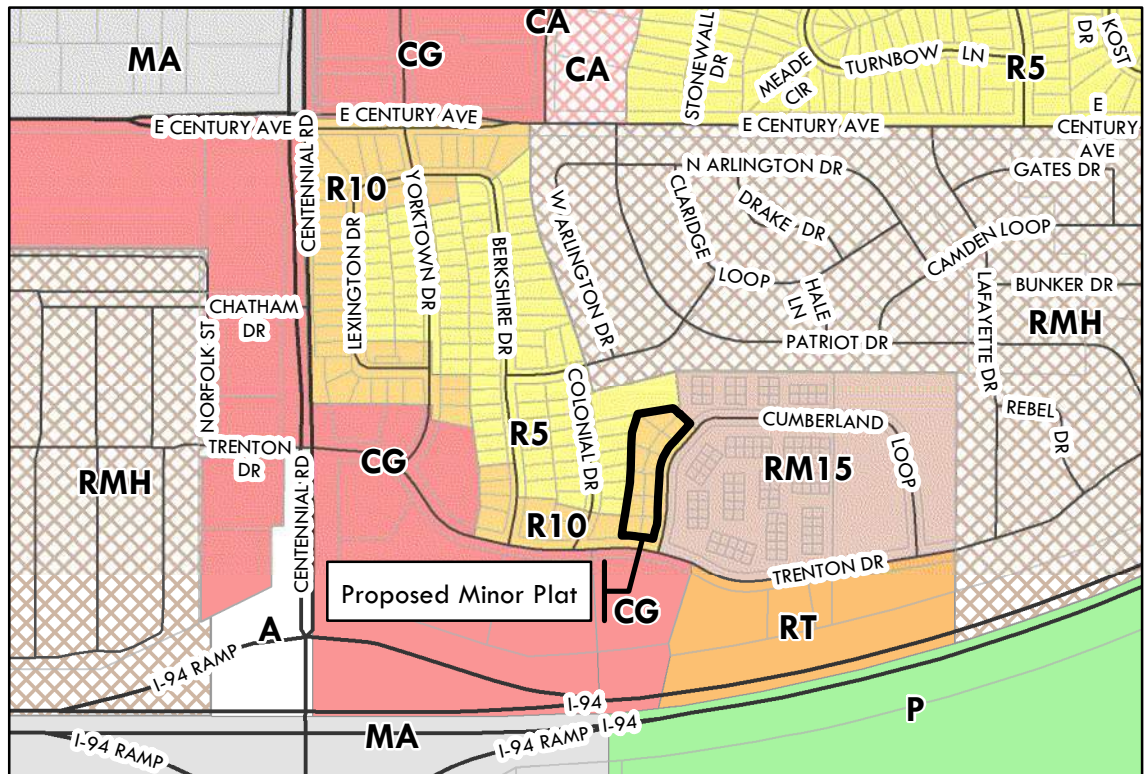
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

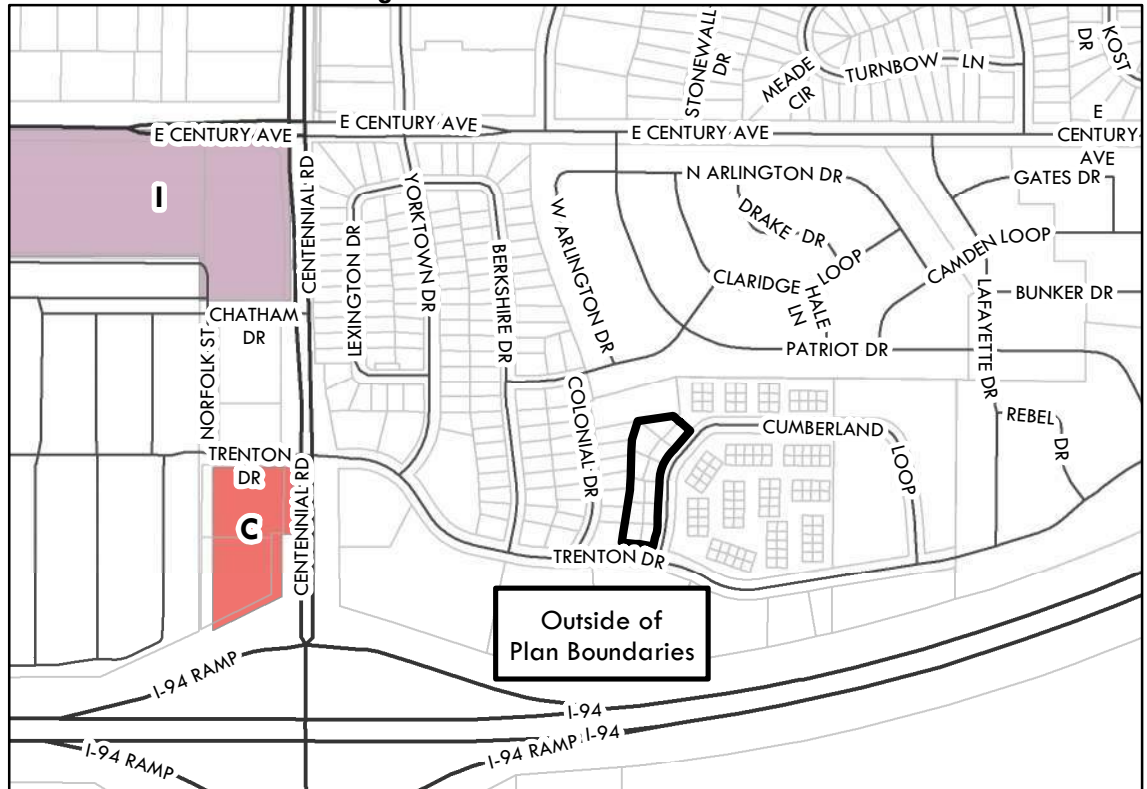
Zoning Map



Future Land Use Plan

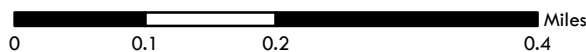
CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector



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City of Bismarck
Community Development Dept.
Planning Division
June 21, 2017

Scale 1" = 50'

[illegible]

THE LEGAL DESCRIPTION WAS PREPARED BY HOLLY M. BECK, HOLLY BECK SURVEYING & ENGINEERING, INC., 3120 E. BROADWAY AVE., BISMARCK, ND 58501

CURVE	Δ	RADIUS	ARC LENGTH	TANGENT
G1	39°00'00"	170.00'	115.72'	60.20'
G2	38°21'00"	400.00'	90.76'	48.97'
G3	12°59'12"	740.00'	156.97'	78.78'

CURVE	Δ	RADIUS	ARC LENGTH
C4	4°38'22"	370.00'	20.96'
C5	2°56'58"	370.00'	19.05'
C6	4°18'05"	370.00'	14.54'
C7	11°10'23"	203.00'	39.59'
C8	11°10'23"	203.00'	35.17'
C9	13°22'23"	203.00'	27.38'
C10	0°25'28"	203.00'	1.50'

PLAT IS SUBJECT TO ALL PRIOR
EASEMENTS OF RECORD
BEARINGS AND DISTANCES MAY
VARY FROM PREVIOUS PLATS DUE TO DIFFER-
ENCES IN MEASUREMENTS

FOUND IRON PIN

SET No. 5 REBAR w/ALUM CAP

KNOW ALL MEN BY THESE PRESENTS, THAT TRINITY STREET PARTNERS, L.P., BEING OWNERS AND PROPRIETOR OF THE PROPERTY SHOWN HEREON, HAS CAUSED THAT CERTAIN UNINCORPORATED HEREON, TO BE SURVEYED AND PLATTED AS "TRINITY AND ADDITION", BISMARCK, NORTH DAKOTA, AND DO SO REDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO REDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITY SERVICES OR UNDER THOSE CERTAIN STORMS OF LAND DESIGNATED HEREON AS UTILITY, WATERMAIN, SANITARY SEWER, STORM SEWER AND STORM WATER EASEMENTS.

STATE OF NORTH DAKOTA) SS
COUNTY OF BURLEIGH)

ON THIS _____ DAY OF _____, 2017, PERSONALLY APPEARED BEFORE ME, MATTHEW GEIGER, KNOWN TO ME TO BE THE MANAGING PARTNER OF TRENTON STREET PARTNERS, LLP, WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

HOLLY M. BECK, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA HEREBY CERTIFY THAT THE ACCOMPANYING PLAT WAS SURVEYED UNDER MY SUPERVISION AND THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

HOLLY BECK SURVEYING & ENGINEERING, INC.
3120 E BROADWAY AVE
BISMARCK, ND 58501

STATE OF NORTH DAKOTA)
SS

ON THIS _____ DAY OF _____, 2017, PERSONALLY APPEARED BEFORE ME, HOLLY M. BECK KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME.

PLANNING & ZONING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ DAY OF _____, 2017, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN HEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE DAY OF _____, 2017.

ATTEST
KEITH J. HUNKE, CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J SCHWELL, CITY ENGINEER OF THE CITY OF BISMARK, NORTH DAKOTA, HEREBY APPROVE
TRENTON 2ND ADDITION". CITY OF BISMARK, NORTH DAKOTA, AS SHOWN HEREON.

GABRIEL SCHELL
CITY ENGINEER

hb HOLLYBECK
SURVEYING ■ ENGINEERING, INC.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 10

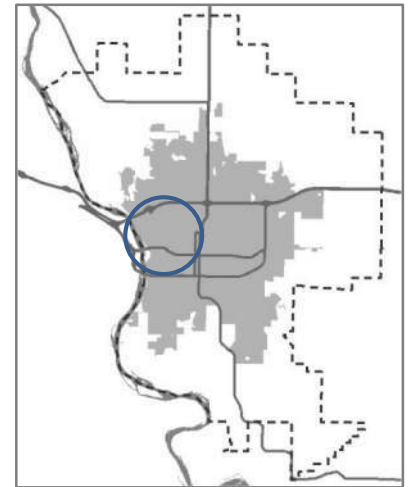
June 28, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-010

Project Summary

Title:	Lot 7, Block 11, Northern Pacific Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	613 Development Corporation
Project Contact:	Loran Galpin
Location:	Central Bismarck, along the east side of North 3 rd Street between East Avenue A and East Avenue B (613 North 3 rd Street).
Project Size:	11,250 square feet
Request:	Rezone property from PUD – Planned Unit Development to RT – Residential to allow uses allowed by right in the remainder of this block.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	Number of Lots:	1 lot in 1 block
Land Use:	Mixed-use building	Land Use:	Mixed-use building
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	PUD – Planned Unit Development	Zoning:	RT – Residential
Uses Allowed:	PUD – Uses specified in PUD	Uses Allowed:	RT – Offices and multi-family residential
Max Density Allowed:	PUD – Density specified in PUD	Max Density Allowed:	RT – 30 units / acre

Property History

Zoned:	04/1987	Platted:	02/1915	Annexed:	Pre-1940
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Staff Analysis

The applicant is requesting a zoning change from the PUD – Planned Unit Development zoning district back to the RT – Residential zoning district to allow uses

allowed by right in the remainder of this block, including the education use group. The property is being considered as the location for a private elementary school, which would require an amendment

(continued)

to the existing PUD or a zoning change back to the RT – Residential zoning district.

The property was re-zoned to PUD – Planned Unit Development in April 1987. The allowable uses within the PUD included a salon, offices and an apartment. When the PUD was approved, a salon was not a permitted use in the RT – Residential zoning district. The PUD allowed the adaptive reuse of the building for a mixed-use project with modified off-street parking requirements. The PUD was amended in 2001 to include craft and gift sales as an allowable ancillary use to the salon. After the salon closed, the PUD was amended in 2011 to allow a day care facility in this location. That day care facility recently relocated to another building within the community.

Although there have been discussions with the owner of the property over the years to change the zoning of the lot back to RT – Residential, that action was never requested. At this time, it makes sense to rezone the property back to the original RT – Residential zoning district and allow the property to be used under the same provisions that apply to other properties within this block.

Adjacent land uses include mixed density residential to the north, south, east and west across North 3rd Street.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;

3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

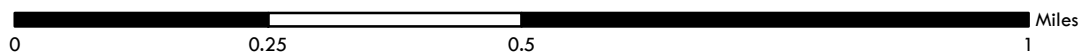
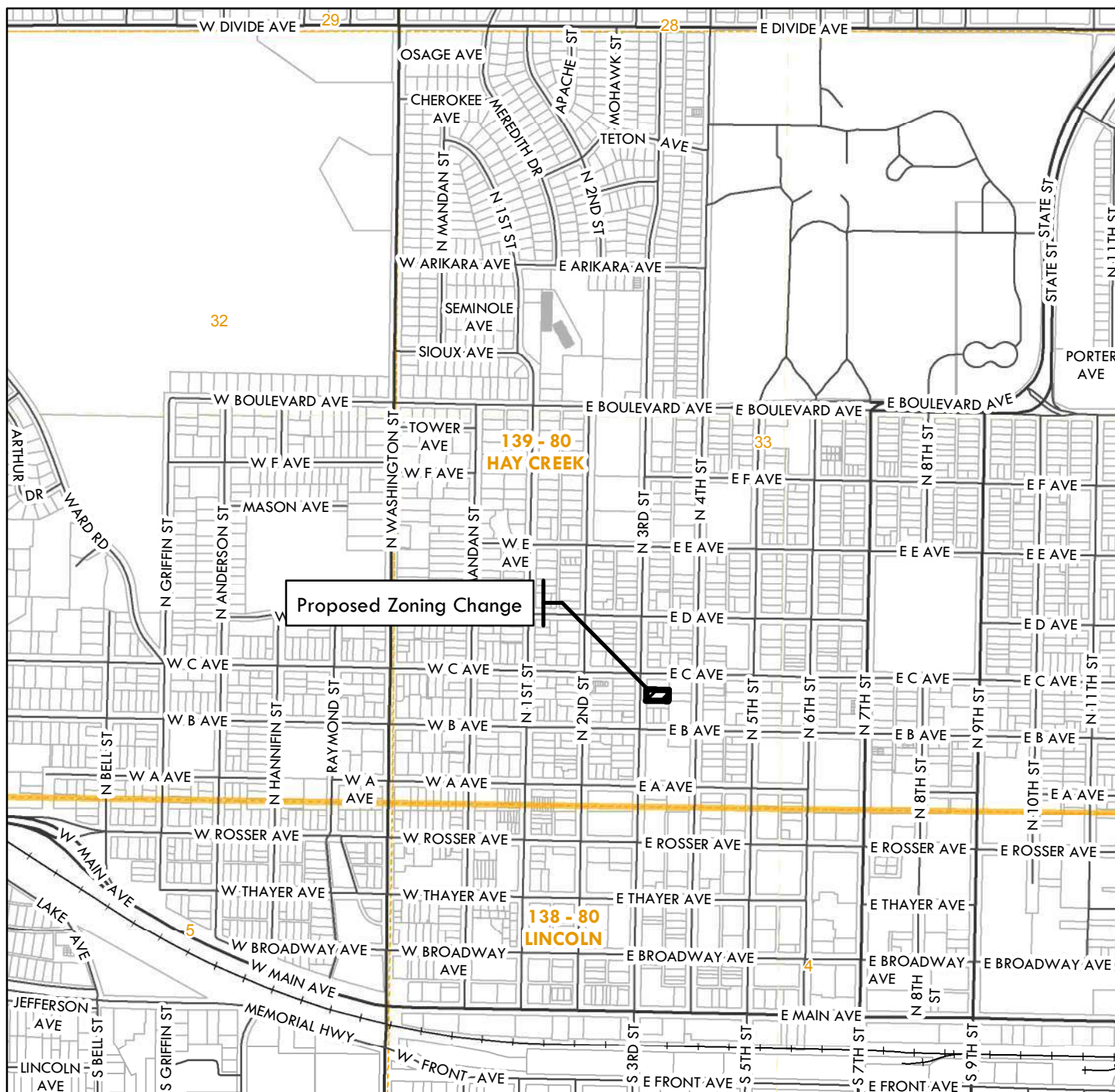
Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the PUD-Planned Unit Development zoning district to the RT – Residential zoning district on Lot 7, Block 11, Northern Pacific Addition.

Attachments

1. Location Map
2. Zoning and Plan Reference Map

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

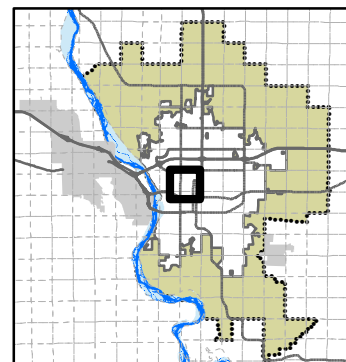


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
May 11, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Proposed Zoning Change (PUD to RT)

Lot 7, Block 11, Northern Pacific Addition

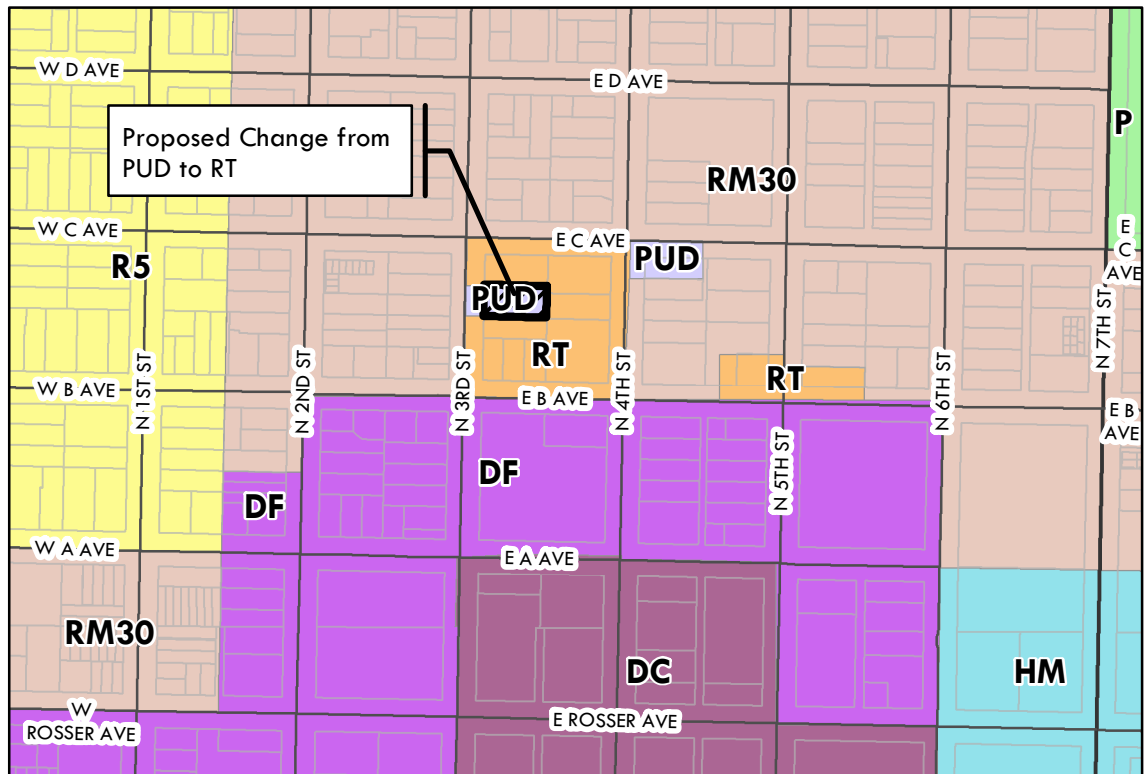
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

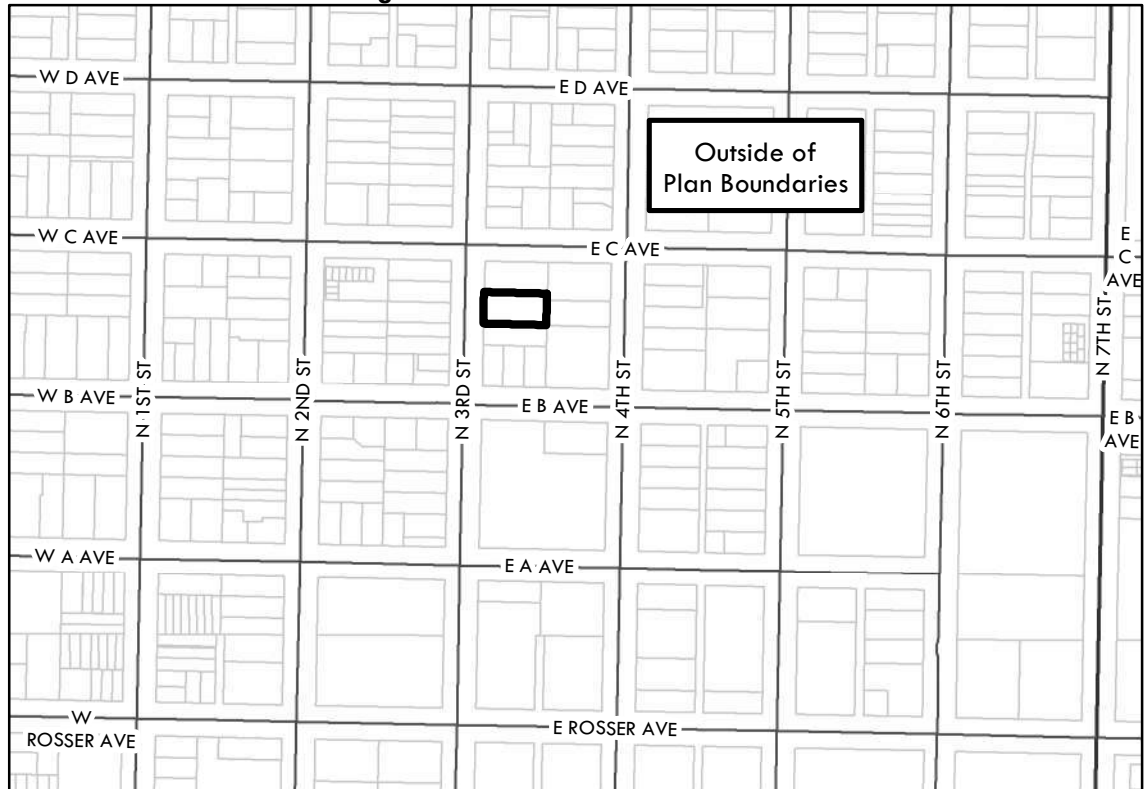
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector

0 0.05 0.1 0.2 Miles



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
May 16, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item #11

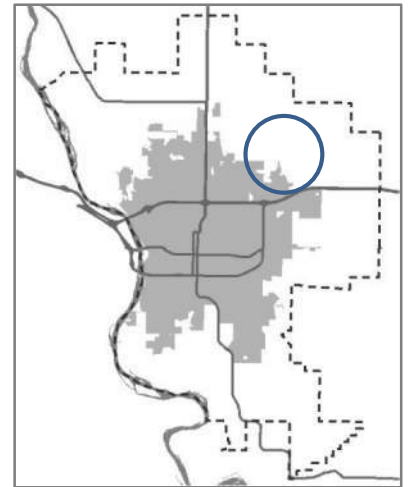
June 28, 2017

Application for: Special Use Permit

TRAKit Project ID: SUP2017-007

Project Summary

<i>Title:</i>	Lot 1, Block 1, Bluestem Hills Subdivision (6101 52nd Street NE)
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Brandon & Cassandra Kisse
<i>Project Contact:</i>	Brandon Kisse
<i>Location:</i>	East of Bismarck, north of 57th Avenue NE along the east side of 52nd Street NE.
<i>Project Size:</i>	7.52 acres
<i>Request:</i>	Approval of a special use permit to increase the maximum area of accessory buildings on the lot to 3,200 square feet.



Site Information

Existing Conditions

<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Rural Residential
<i>Designated GMP</i> <i>Future Land Use:</i>	Medium Density Residential
<i>Zoning:</i>	RR – Residential
<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture
<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet

Proposed Conditions

<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Rural Residential
<i>Designated GMP</i> <i>Future Land Use:</i>	Medium Density Residential
<i>Zoning:</i>	RR – Residential
<i>Uses Allowed:</i>	RR – Large lot single-family residential and limited agriculture
<i>Max Density Allowed:</i>	RR – 1 unit per 65,000 square feet

Property History

<i>Zoned:</i>	11/2004	<i>Platted:</i>	5/1995	<i>Annexed:</i>	N/A
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Staff Analysis

The applicant is requesting approval of a special use permit to increase the maximum allowable accessory

building size on a parcel located in the RR - Rural Residential Zoning District.

(continued)

Section 14-03-06(1)(b)(5) of the City Code of Ordinances states, "The allowable accessory buildings for a single family rural residence on a lot in a rural residential zoning district (RR & RR5) with more than 65,000 square feet in area may be increased to a maximum of thirty-two hundred (3,200) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08." A copy of this section of the ordinance is attached.

The parcel size for the proposed special use is 7.52 acres or 327,571 square feet and meets the criteria for a maximum allowable size of 3,200 square feet for all accessory buildings. There is an existing accessory building on this parcel that measures 15 feet x 36 feet or 540 square feet. The proposed new accessory building measures 42 feet x 64 feet or 2,688 square feet. As proposed, the cumulative area of all existing and proposed accessory structures would be 3,228 square feet and would exceed the maximum size allowed by approval of a special use permit.

The applicant has indicated that, upon approval, he will modify the existing accessory structure and reduce its size by 28 square feet to ensure that the cumulative area of all existing and proposed accessory structures does not exceed 3,200 square feet. Based on building specifications provided by the applicant, the building will have a sidewall height of 14 feet.

Required Findings of Fact (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The Gibbs Township Board of Supervisors has not yet provided a recommendation for the proposed special use;
4. The proposed special use would be designed, constructed, operated and maintained in a

manner that is compatible with the appearance of the existing or intended character of the surrounding area;

5. Adequate public facilities and services are in place or would be provided at the time of development;
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
7. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
8. The proposed special use permit is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit to increase the area of accessory buildings on the lot to 3,200 square feet for Lot 1, Block 1, Bluestem Subdivision with the following condition:

1. The maximum square foot of all accessory structures on the parcel shall not exceed 3,200 square feet upon completion of the new accessory structure.

Attachments

1. Section 14-03-06(1)(b)(5) of the City Code of Ordinances
2. Location Map
3. Zoning and Plan Reference Map
4. Site Plan
5. Building Specifications and Drawing

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

Section 14-03-06(1)(b)(5)

5. All allowable accessory buildings for a single-family rural residence in a rural residential zoning district (RR & RR5) shall be limited to a maximum area of fourteen hundred (1,400) square feet for lots of 40,000 square feet or less; to a maximum area of eighteen hundred (1,800) square feet for lots between 40,000 square feet and 64,999 square feet; to a maximum area of twenty-four hundred (2,400) square feet for lots over 65,000 square feet, except as provided for herein. The maximum wall height shall be limited to fourteen (14) feet and the maximum building height shall be limited to twenty-five (25) feet.

The allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with 40,000 to 64,999 square feet in area may be increased to a maximum of twenty-four hundred (2,400) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

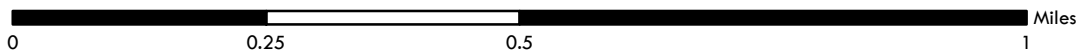
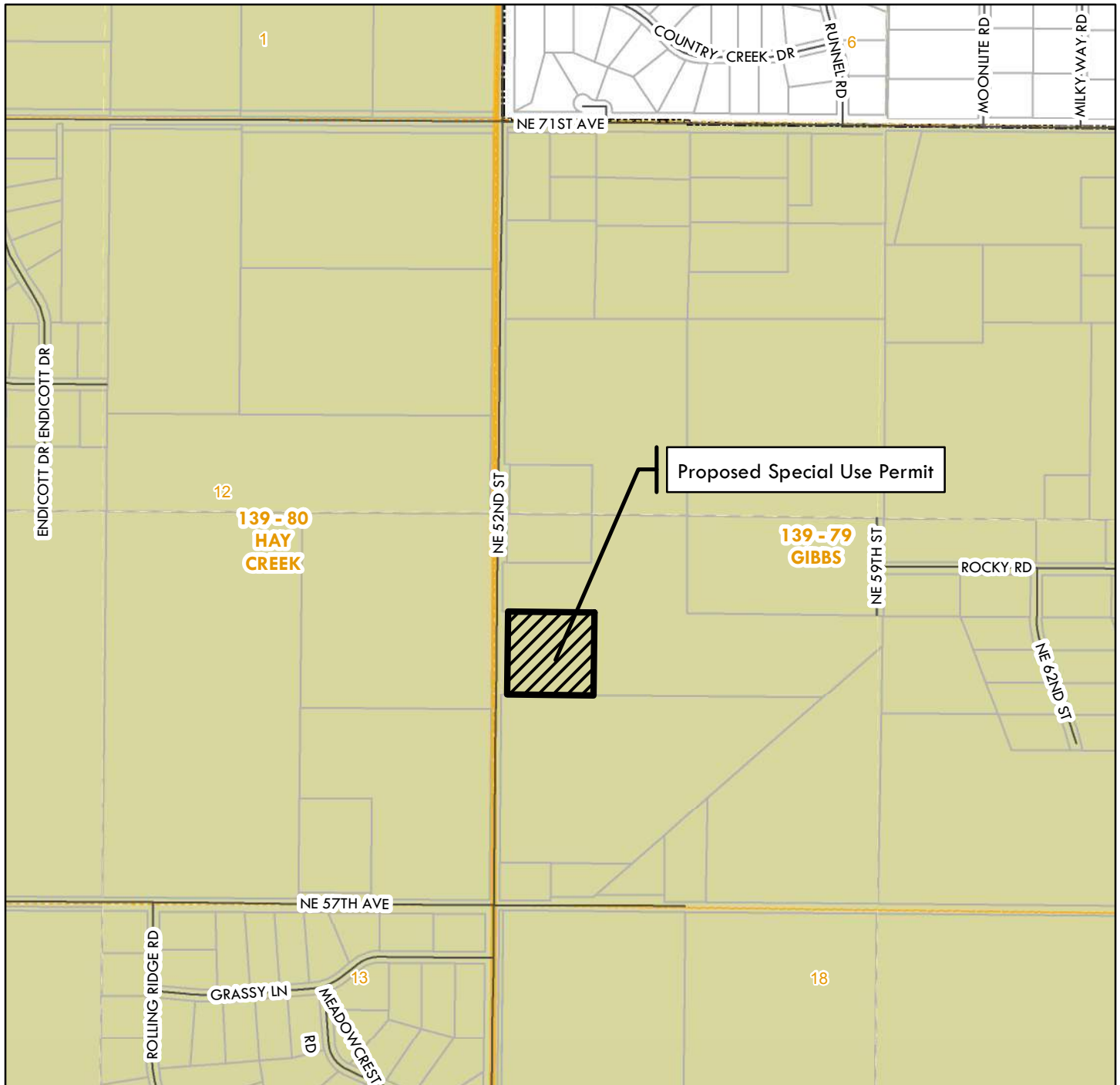
The allowable accessory buildings for a single-family rural residence on a lot in a rural residential zoning district (RR & RR5) with more than 65,000 square feet in area may be increased to a maximum of thirty-two hundred (3,200) square feet provided a special use permit is approved by the Planning Commission in accordance with the provisions of Section 14-03-08.

Accessory buildings for the above computations shall include the following buildings: barns, stables, storage buildings, and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.



Proposed Special Use Permit Lot 1, Block 1, Bluestem Hills

Project
Location Map

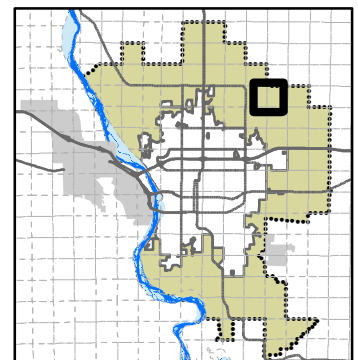


City Limits



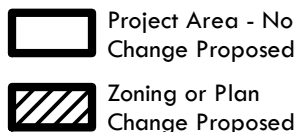
Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange

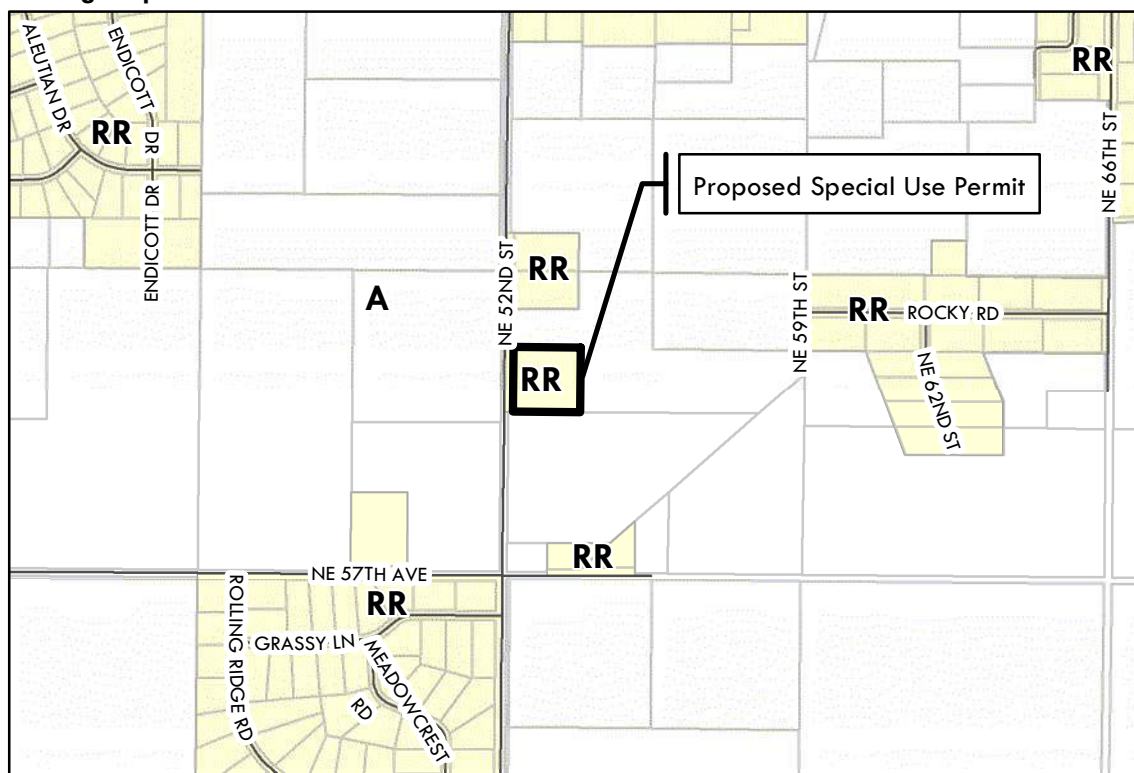


City of Bismarck
Community Development Department
Planning Division
May 26, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Zoning Map



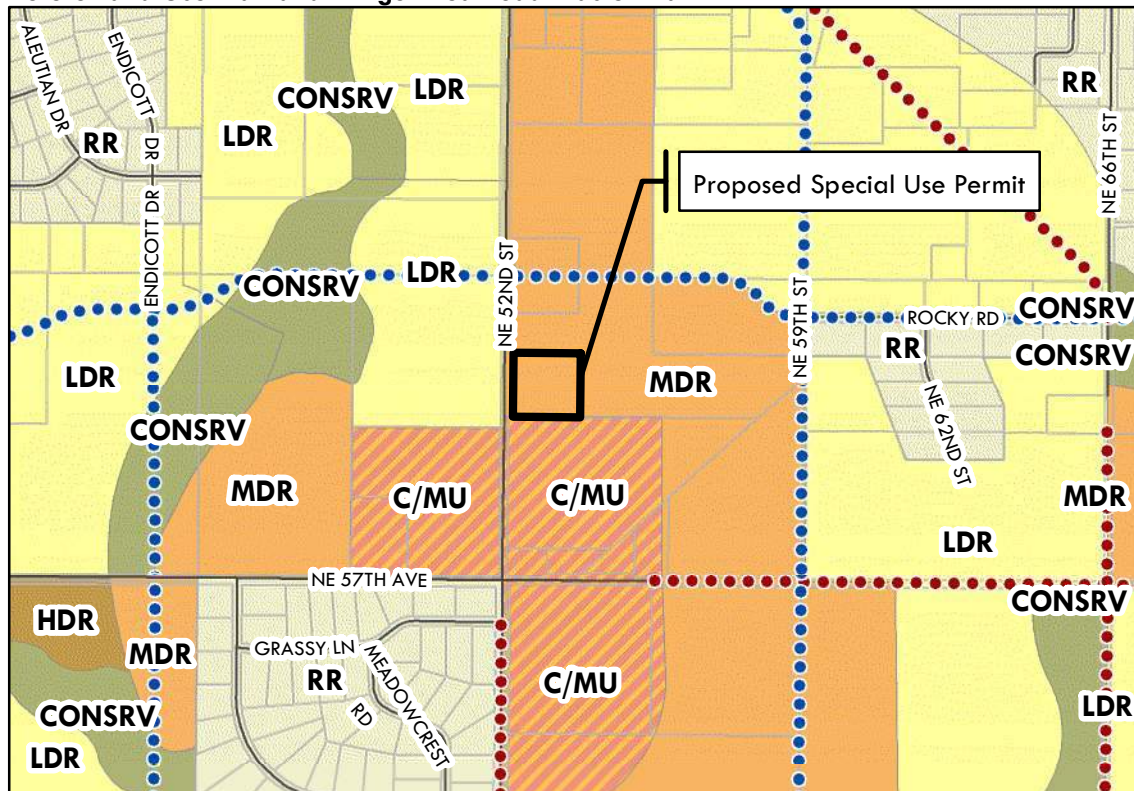
Zoning Districts

A	Agriculture
RR	Rural
	Residential
R5	Residential
RMH	Manufactured
	Home Residential
R10	Residential
RM	Residential
	Multifamily
RT	Residential
	(Offices)
HM	Health and
	Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit
	Development
DC	Downtown Core
DF	Downtown Fringe

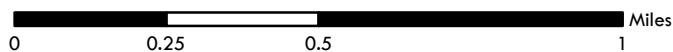
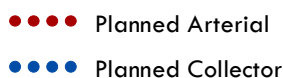
Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/ Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR- /MU	Medium Density Residential/ Mixed Use
MU	Mixed Use
O/MU	Office/ Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan



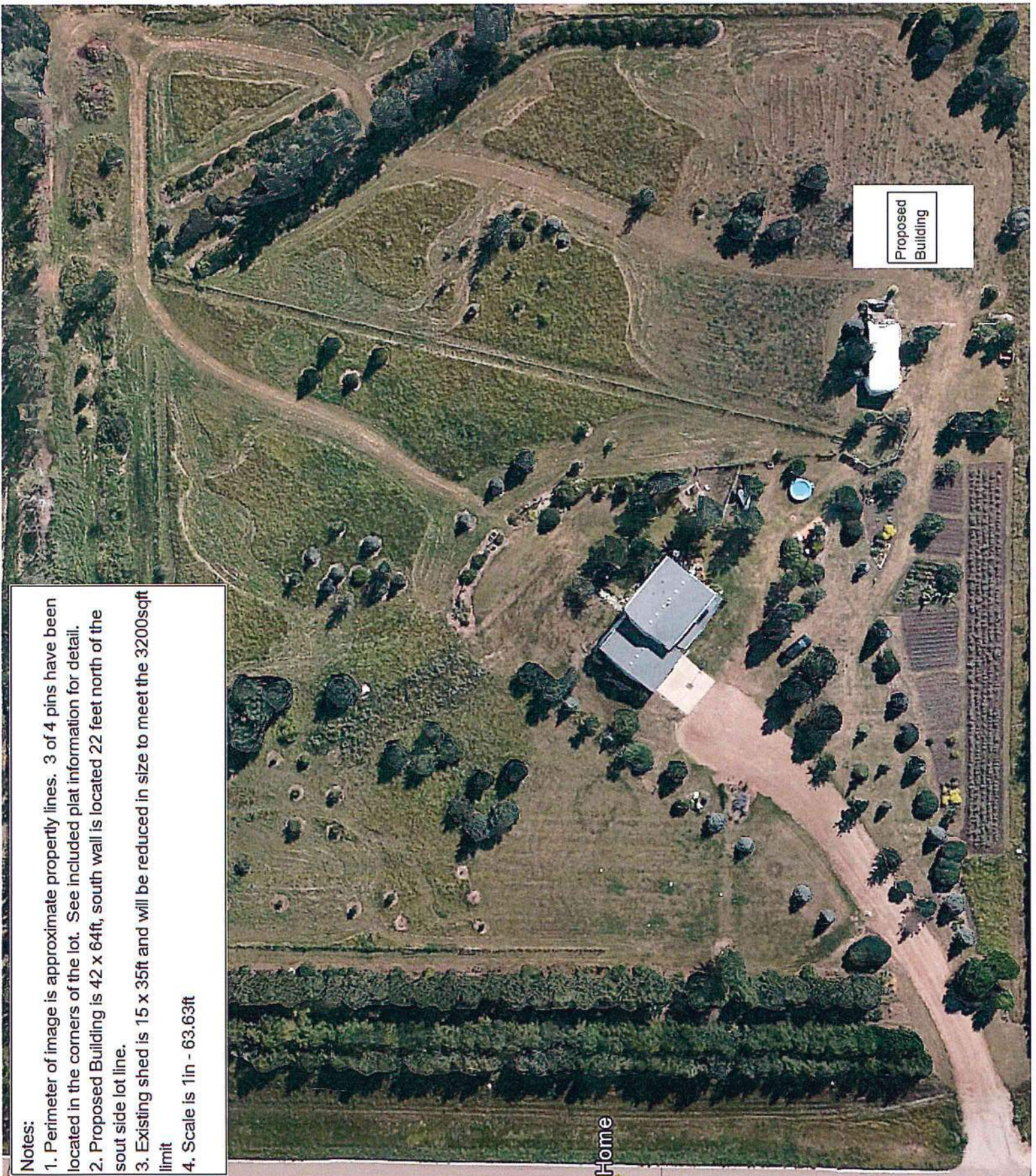
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
June 20, 2017

Notes:

1. Perimeter of image is approximate property lines. 3 of 4 pins have been located in the corners of the lot. See included plat information for detail.
2. Proposed Building is 42 x 64ft, south wall is located 22 feet north of the south side lot line.
3. Existing shed is 15 x 35ft and will be reduced in size to meet the 3200sqft limit
4. Scale is 1in - 63.63ft





Construction Proposal

Owner

 Brandon Kisse
 6101 52nd St NE

 Bismarck, North Dakota 58503
 Home:
 Cell: (701) 680-9006
 Work:
 Other:

Deliver To

 Brandon Kisse
 6101 52nd ST NE

 Bismarck, North Dakota 58503
 Home:
 Cell: (701) 680-9006
 Work:
 Other:

Building Info

Style	Width	Height	Length	Truss Spacing	Roof Pitch	Lower Chord	Peak Height	Soffit Height
306	42'	14'	64'	8'	4/12	1/12	22' 6.5"	14' 5"

306 42'x14'x64' (#1) - Building Use: Suburban - Storage

Payment Terms

Pricing is based on cash terms according to the payment schedule shown. Non-cash payments are subject to Terms and Conditions, #2. All applicable taxes are included in the total price.

Pricing is contingent upon delivery of material on or before August 21, 2017. (See Building Site Specifications, #2)

 Approximate delivery after August 14, 2017.

Down payment type: Check #

Progress Payment 1 due upon: Due Mid June

Down Payment:

Progress Payment 1:

Delivery Payment:

Final Payment:

Total:

Customer Signature

THIS ORDER CONSISTS OF BUILDING SPECIFICATION(S), BUILDING PERSPECTIVE(S), COLUMN PLAN(S), BUILDING COLOR DEFINITION(S), SITE CONDITIONS, BANK CREDIT INFORMATION, BUILDING SITE SPECIFICATIONS (06/10), TERMS AND CONDITIONS (10/16), CONSTRUCTION PLANNING WARNING (06/10), AND 613 FLUOROFLEX® LIMITED WARRANTY WHICH ARE ATTACHED AND INCORPORATED HEREIN

 By signature below, I certify that Brandon J Kisse hold(s) title to the
 (Print Property Owner's Name)

property upon which construction will be performed under this Order and has given permission for construction.

Signature of Brandon Kisse

17 May 2017
 Signature Date





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item #12

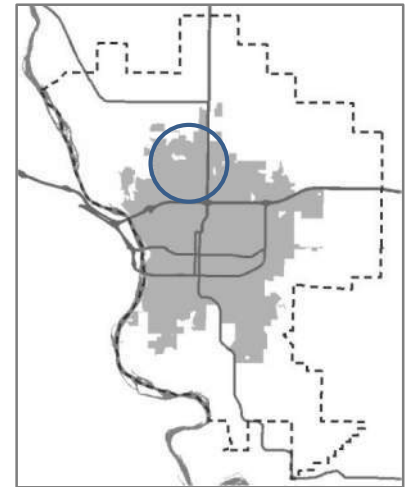
June 28, 2017

Application for: Special Use Permit

TRAKiT Project ID: SUP2017-008

Project Summary

<i>Title:</i>	Lot 1, Block 5 and the East 40 feet of the vacated 11th Street adjacent to Lot 1, Century Commercial Park and Lot 4, Block 1, Menards Addition and less that part taken for street right-of-way (1100 Weiss Avenue)
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Thomas Bry (applicant) Dr. James & Mercy Ragland (property owner)
<i>Project Contact:</i>	Thomas Bry, The Enrichment Garden
<i>Location:</i>	In north Bismarck, north of East Century Avenue and west of State Street, along the north side of Weiss Avenue.
<i>Project Size:</i>	.99 acre
<i>Request:</i>	Approval of a special use permit to allow the operation of a child care center.



Site Information

Existing Conditions

<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Medical office
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density Allowed:</i>	CG – 42 units / acre

Proposed Conditions

<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Child care center
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density Allowed:</i>	CG – 42 units / acre

Property History

<i>Zoned:</i>	Pre-1980 (CCP) 06/1998 (MA)	<i>Platted:</i>	02/1974 (CCP) 02/1999 (MA)	<i>Annexed:</i>	Pre-1980 (CCP) 05/1999 (MA)
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Staff Analysis

The applicant is requesting approval of a special use permit to operate a child care center in a CG-Commercial zoning district. A child care center is allowed as a special use in the CG-Commercial zoning district, provided certain conditions are met. The proposed child care center meets the five provisions outlined in Section 14-03-08(4)(q) of the City Code of Ordinances (Special Uses). A copy of this section of the zoning ordinance is attached.



The proposed special use would provide child care services intended to accommodate 82 children ages six weeks to twelve years. The child care center will employ eighteen employees with no more than fifteen employees working at any given time. Hours of operation will be Monday – Friday, 6:30 am to 6:00 pm. Based on the site and building plans submitted by the applicant, adequate indoor and outdoor recreation space will be provided to meet the requirements of the ordinance.

The applicant has been working with City staff to ensure all of the requirements to establish and operate a child care center are met including site design with adequate outdoor recreation area and parking. The facility will conform to all applicable requirements of the International Building Code and the International Fire Code.

Adjacent land uses include a home improvement store to the north, a church and child care center to the west, and a grocery store, liquor store and bank to the south and east across Weiss Avenue.

The proposed child care center would be an adaptive reuse of an office building, that was originally

constructed as a restaurant. The building was constructed in 1978 and at the time neither sidewalks or street trees were installed. The City of Bismarck has identified this property for sidewalk infill improvements in 2017 along the north boulevard of Weiss Avenue. The applicant has indicated that upon completion of the sidewalk, he will work with the City Forester to install street trees.

Required Findings of Fact (relating to land use)

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance;
2. The proposed special use is compatible with adjacent land uses and zoning;
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area;
4. Adequate public facilities and services are in place or would be provided at the time of development;
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity;
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic;
7. The proposed special use is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the special use permit for a child care center to be located on Lot 1 and the East 40' of the vacated 11th Street adjacent, Block 5, Century

(continued)

Commercial Park and Lot 4, Block 1, Menards Addition and less that part taken for street right-of-way with the following condition:

1. The development of the site must generally conform to the site plan submitted with the application.

Attachments

1. Section 14-03-08(4)(q) of the City Code of Ordinances
 2. Location Map
 3. Zoning and Plan Reference Map
 4. Site Plan
 5. Building Plan
-

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

14-03-08(4)(q)

q. Child Care Center. Child Care centers may be permitted as a special use in all zoning districts except RMH or MB districts, provided:

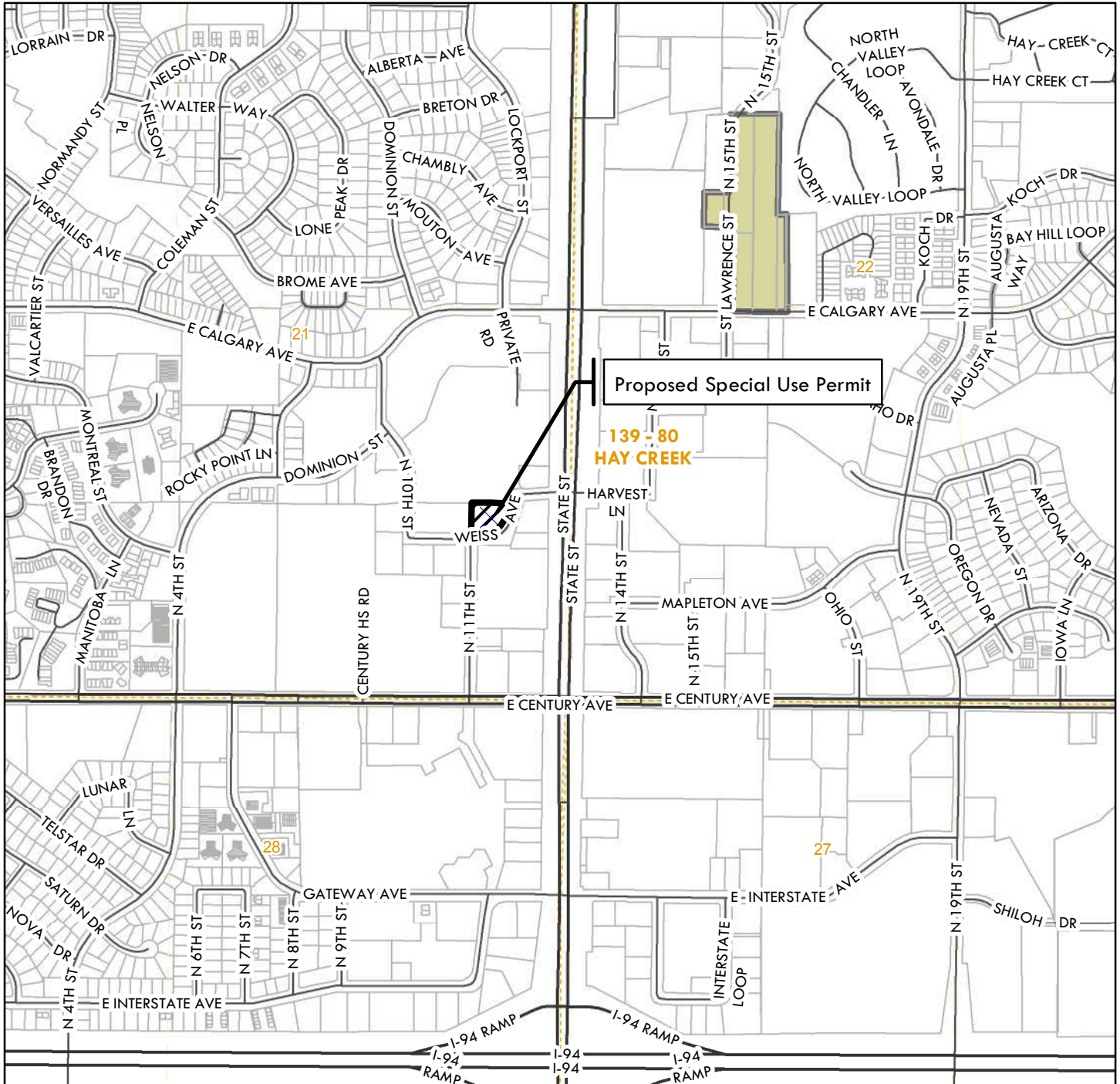
1. Each building shall provide not less than thirty-five (35) square feet of interior recreation area per child. Work areas, office areas, and other areas not designed for use of the children may not be counted in this computation.
2. Each lot shall provide an outdoor recreation area of not less than seventy-five (75) square feet per child. The recreation area shall be fenced, have a minimum width of twenty (20) feet, a minimum depth of twenty (20) feet, be located on the same lot or parcel of land as the facility it is intended to serve, and must be located behind the building setback lines.
3. Adequate off street parking shall be provided at the following ratio: One space for each employee and one space for each ten (10) children.
4. Child Care centers shall conform to all applicable requirements of the International Building Code and The International Fire Code as adopted by the City of Bismarck (Title 4 of the City Code of Ordinances – Building Regulations), and all requirements of the North Dakota Department of Human Services.
5. Child care centers shall comply with all applicable requirements relating to health and sanitation that have been adopted by the City of Bismarck (Title 8 of the City Code of Ordinances – Health and Sanitation), and all requirements of the North Dakota Department of Health.



Proposed Special Use Permit (Child Care)

Lot 1 and the East 40' of the vacated 11th Street adjacent, Block 5, Century Commercial Park and Lot 4, Block 1, Menards Addition and less that part taken for street right-of-way

Project
Location Map

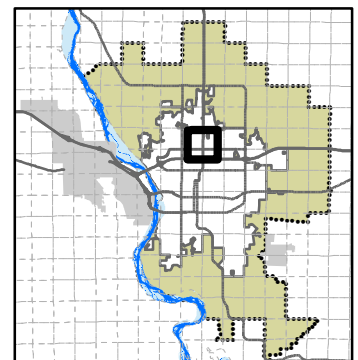


0 0.25 0.5 1 Miles

City Limits

Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
May 26, 2017 (HLB)

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Proposed Special Use Permit (Child Care)

Zoning and Plan
Reference Map

Lot 1 & the East 40' of the vacated 11th Street adjacent, Block 5, Century

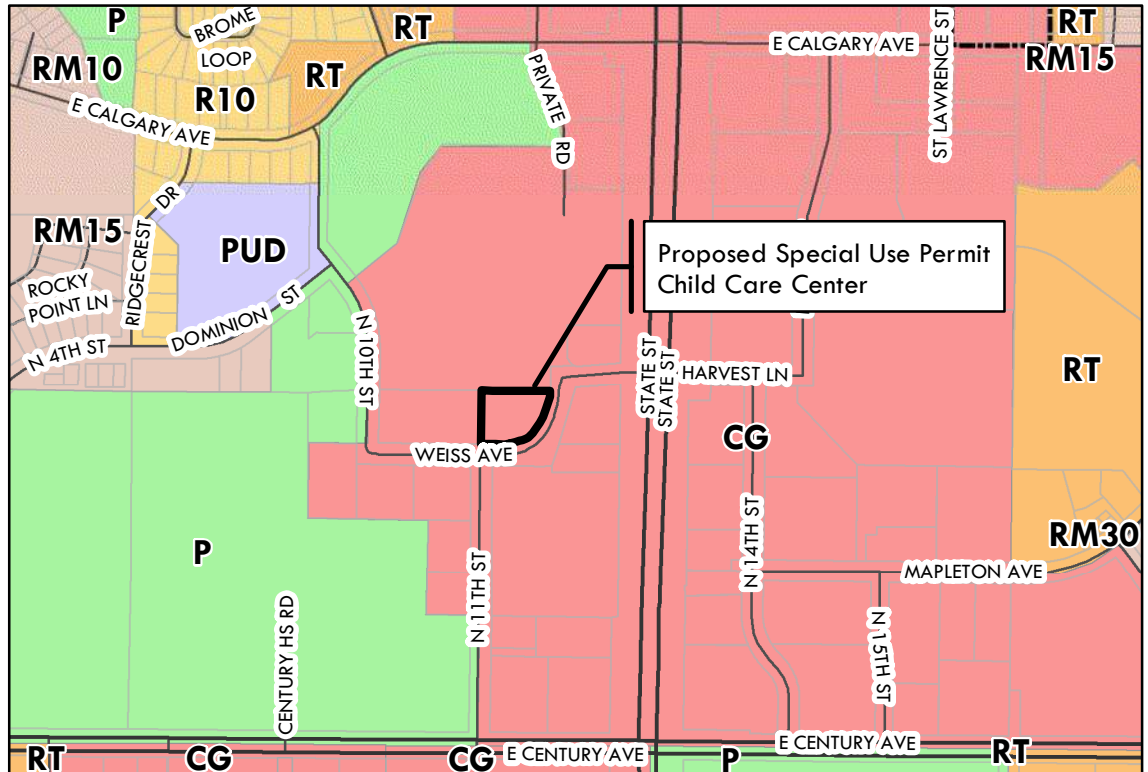
Commercial Park & Lot 4, Block 1, Menards Addition & less that part taken for street right-of-way

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
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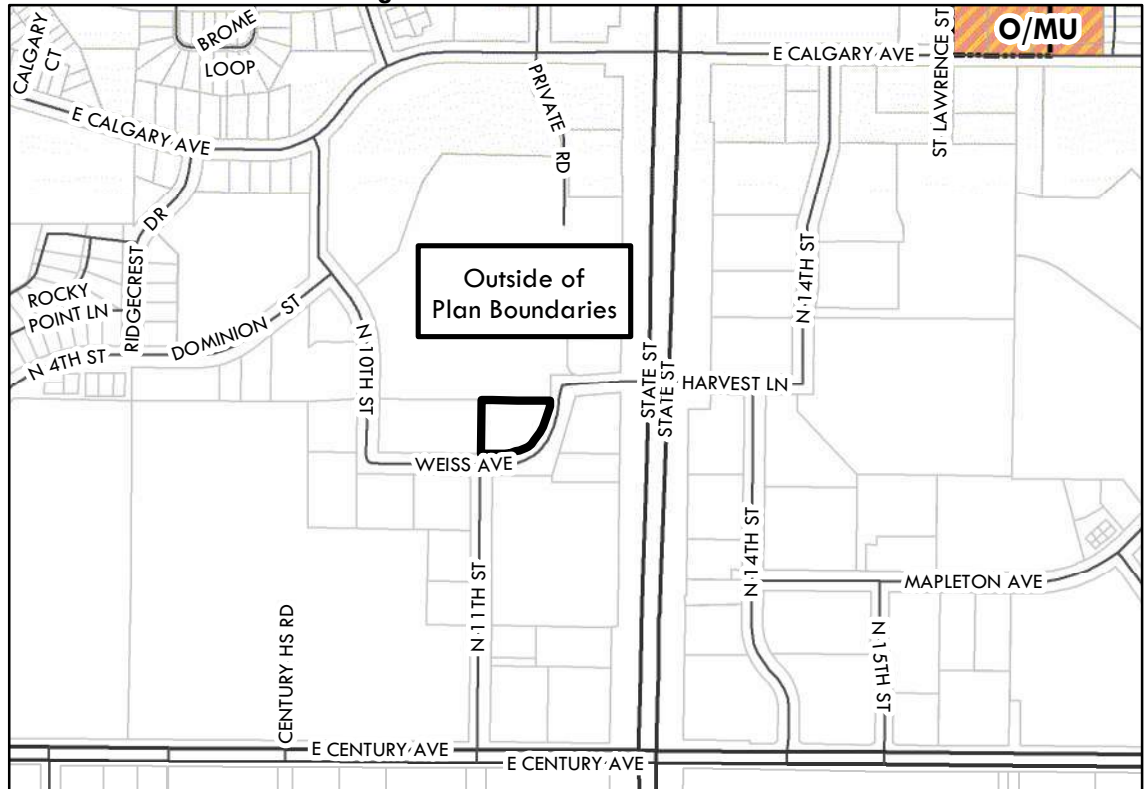
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
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MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector

0 0.1 0.2 0.4 Miles



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City of Bismarck
Community Development Dept.
Planning Division
June 21, 2017

North

253

177

Play Area

22 ft

103

Building

62

Play Area
72' x 30' ft

60

19

West

East

215

811

66

(grass)

40

102

Lock

124

Hand A

44

Weliss Ave

Grass

388

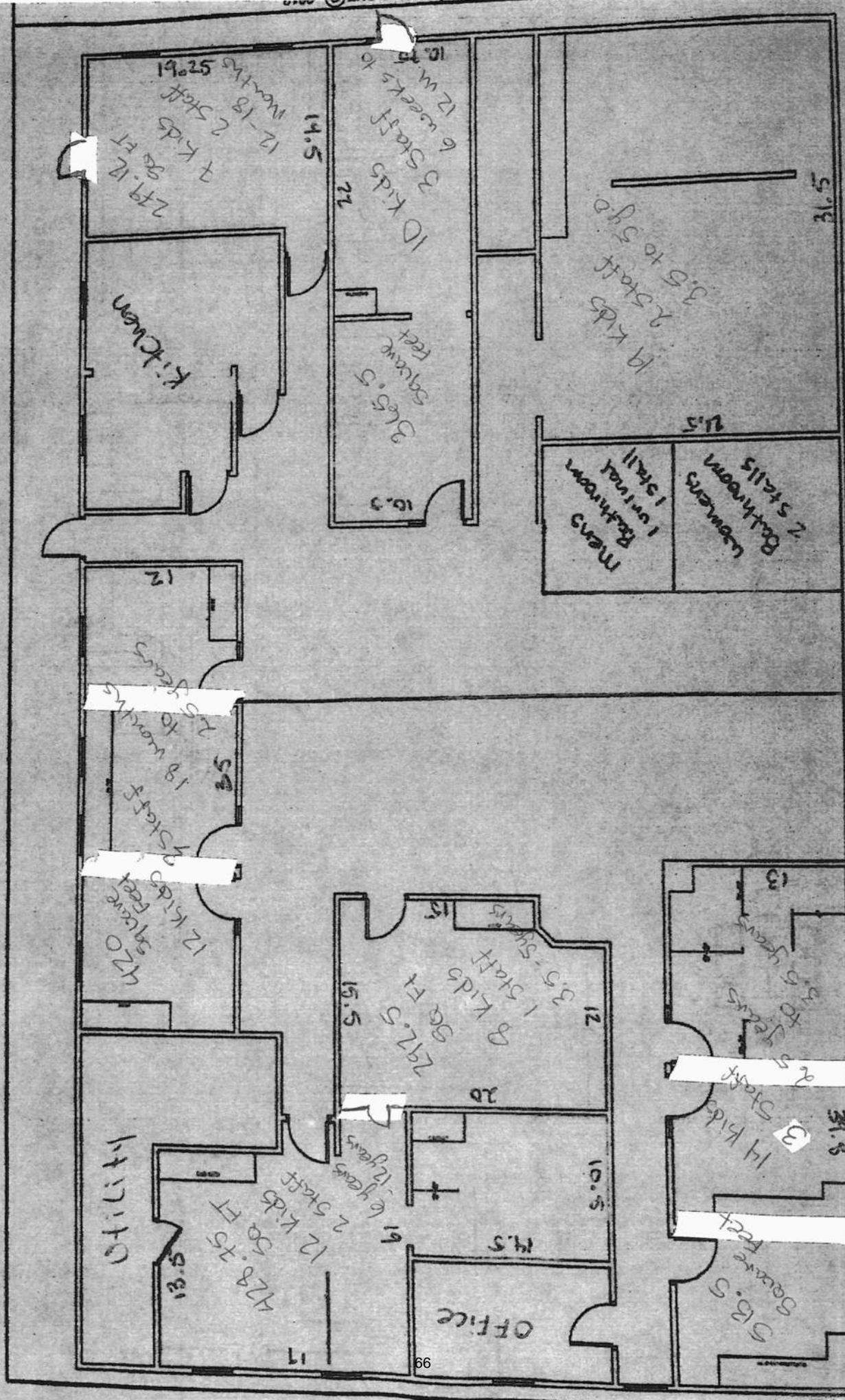
--- = Fence

24 spots

1 Handicap van

1 Normal Handicap

Sketch





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 13

June 28, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-003

Project Summary

Title:	Off-Street Parking and Loading/Off-Street Parking
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Section 14-03-10(3) (Off-Street Parking and Loading/Off-Street Parking)
Request:	Modify the off-street parking requirements for service businesses with fifty (50) percent or more of the gross floor area devoted to storage, warehouse and/or industry use, including those facilities commonly referred to as shop condos.

Staff Analysis

The City's Off-Street Parking and Loading provisions were modified in March 2016. At that time, a table was created identifying uses and the required number of off-street parking spaces for each identified use. It was recently brought to staff's attention that the wording of the provisions for certain types of industrial uses, specifically shop condos, would require far more off-street parking spaces for multi-tenant shop condos than was intended. The proposed amendment to this section would rectify the issue and bring the requirements for multi-tenant shop condos in line with the requirements for similar facilities with only one tenant. Language was also added to clarify that required off-street parking spaces for industrial uses may not be located in front of overhead doors unless they are used solely for the parking of company-owned vehicles.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;

2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Section 14-03-10(3) of the City Code of Ordinances (Off-street Parking and Loading/Off-street Parking) as attached in the draft ordinance.

Attachments

1. Draft zoning ordinance text amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-10 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO OFF-STREET PARKING AND LOADING/OFF-STREET PARKING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-10 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Off-Street Parking and Loading is hereby amended and re-enacted to read as follows:

14-03-10. Off-Street Parking and Loading.

* * * * *

3. Off-street parking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street parking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required parking space shall be of an area at least nine (9) feet wide and eighteen (18) feet in length, in addition to the ingress and egress driveways required. The required off-street parking, loading, and access areas shall be used exclusively for the temporary parking and maneuvering of vehicles and shall not be used for the sale, lease, display, repair, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, or equipment, or for any

other use not authorized by the provisions of this Title. All off-street parking spaces required and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement. **Required off-street parking spaces for industrial uses may not be located in front of overhead doors unless they are used solely for the parking of company-owned vehicles.** The number of off-street parking spaces shall be provided on the basis of the following minimum requirements:

USE	REQUIRED NUMBER OF OFF-STREET PARKING SPACES
* * * * *	
<i>Industrial Uses</i>	
Service businesses with fifty (50) percent or more of the gross floor area devoted to storage, warehouse and/or industry use, including those facilities commonly referred to as shop condos	<p>Five (5) spaces or one (1) space for each two hundred and fifty (250) square feet devoted to public sales, service, or office use, whichever is greater, plus and one space for each six hundred (600) square feet of storage area, whichever is greater.</p> <p>Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking. These provisions shall apply on a per unit basis for multi-tenant or multi-owner buildings such as shop condos.</p>
* * * * *	

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 14

June 28, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-002

Project Summary

Title:	Stormwater Management Ordinance
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Title 14.1 (Stormwater Management)
Request:	Revise Title 14.1 of the City Code of Ordinances (Stormwater Management) in conjunction with the adoption of an updated Storm Water Design Standards Manual (SWDSM)

Staff Analysis

The City of Bismarck has undertaken a project to revise the City's Stormwater Design Standards Manual. In conjunction with this effort, revisions to Title 14.1 of the City Code of Ordinances (Stormwater Management) are needed so that the two documents continue to work together. It is anticipated that both documents would be adopted in 2017, with an effective date of January 1, 2018. Any project in process on January 1, 2018 could continue under the existing rules if desired by the applicant.

The working group for this project includes representatives from City Engineering, Public Works, Community Development, County Engineering and Burleigh County Water Resource District. There were also seven public input meetings with consulting engineers and multiple meetings with other interested parties as the new Stormwater Design Standards Manual was being developed. AE2S is the consultant for this project and both AE2S representatives and members of the working group contributed to the development of the proposed amendments to Title 14.1.

Title 14.1 of the City Code of Ordinances was originally adopted in February 1997, with an effective date of January 1, 1998. Title 14.1 was subsequently amended in November 2011 to clarify various provisions and processes. The current version of the

City's Stormwater Design Standards Manual was adopted by the City Commission in 2000 and has been amended through technical amendments by the City Engineer.

Drafts of both the Stormwater Design Standards Manual and Title 14.1 were presented to the Board of City Commissioners at their May 9, 2017 meeting for a cursory review. The amendments to Title 14.1 will proceed through the normal consideration and public hearing process for a zoning ordinance text amendment. If recommended for approval by the Planning and Zoning Commission, the amendments will be forwarded to the City Commission for final action. It is expected that adoption of the updated Stormwater Design Standards Manual will occur in conjunction with the adoption of the proposed amendments to Title 14.1.

The proposed amendments make significant changes to Title 14.1. Stormwater permits for construction activity would be replaced with Construction Stormwater Management Permits (CSMPs) and stormwater management plans would become a component of Post-Construction Stormwater Management Permits (PCSMPs). The changes also allow a more appropriate level of detail in conjunction with approval of a final plat or site plan, rather than a construction level detailed design of the stormwater management facilities. The exemption for construction of one and two

(continued)

family residential units would also be eliminated to bring the requirements into compliance with the City's Municipal Separate Storm Sewer System (MS4) permit.

An overview of the proposed revisions to Title 14.1 (Stormwater Management) in a table of contents format is attached for reference.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;

3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Title 14.1 of the City Code of Ordinances (Stormwater Management) as attached in the draft ordinance.

Attachments

1. Overview of proposed revisions
2. Draft zoning ordinance amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

Title 14.1 (STORMWATER MANAGEMENT) – OVERVIEW OF PROPOSED REVISIONS

CHAPTER 14.1-01 GENERAL PROVISIONS

- 14.1-01-01. Purpose and Policy ~~Need~~ *(Existing – Modified Including Title Change)*
- 14.1-01-02. Transfer of Authority *(Existing)*
- 14.1-01-03. Definitions *(Existing - Modified)*
- 14.1-01-04. Scope *(Existing - Modified)*

CHAPTER 14.1-02 STORMWATER MANAGEMENT ~~PLAN PROGRAM~~ *(Title Change)*

- 14.1-02-01. Application *(Deleted)*
- 14.1-02-02. Review *(Deleted)*
- 14.1-02-03. Approval Standards *(Deleted up to 14.1-02-03(4) – Modified as part of 14.1-04-05)*
- 14.1-02-01. Municipal Separate Storm Sewer System *(New)*
- 14.1-02-02. Conformance with Local, State and Federal Regulations *(New)*
- 14.1-02-04. Stormwater Design Standards Manual *(New)*
- 14.1-02-05. Waiver *(New)*
- 14.1-02-06. Illicit Discharges Prohibited *(New)*

CHAPTER 14.1-03 CONSTRUCTION STORMWATER MANAGEMENT PERMITS *(New)*

- 14.1-03-01. Construction Stormwater Management Permits Required *(New)*
- 14.1-03-02. Small Site Construction Stormwater Management Permits *(New)*
- 14.1-03-03. Large Site Construction Stormwater Management Permits *(New)*

CHAPTER 14.1-04 POST-CONSTRUCTION STORMWATER MANAGEMENT PERMITS *(New)*

- 14.1-04-01. Post-Construction Stormwater Management Permits *(New)*
- 14.1-04-02. Review and Approval Procedures *(New)*
- 14.1-04-03. Mandatory Stormwater Management Scoping Sheet *(New)*
- 14.1-04-04. Conditional Approval *(New)*
- 14.1-04-05. Material Submitted After Conditional Approval *(New)*
- 14.1-02-03. Approval Standards *(Deleted after 14.1-02-03(4) – Modified as part of 14.1-04-05)*
- 14.1-02-04. Stormwater Permits *(Deleted)*
- 14.1-04-06. Completion and Final Approval *(New)*

CHAPTER ~~14.1-03~~14.1-05 ENFORCEMENT *(Existing- Modified including Chapter/Section Numbers)*

- 14.1-05-01. Remedies and Enforcement Powers *(Existing – Modified)*
- 14.1-05-02. Administrative Search Warrant *(Existing)*
- 14.1-05-03. Notice and Order *(Existing – Modified)*
- 14.1-05-04. Appeal *(Existing – Modified)*
- 14.1-05-05. Hearing *(Exisitng)*

CHAPTER ~~14.1-04~~14.1-06 PENALTIES *(Existing – Modified including Chapter/Section Numbers)*

- 14.1-06-01. Penalty *(Existing)*
- 14.1-06-02. Abatement *(Existing – Modified)*
- 14.1-06-03. Falsifying Information *(Existing – Modified)*

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT TITLE 14.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO STORMWATER MANAGEMENT.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Title 14.1 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Stormwater Management is hereby amended and re-enacted to read as follows:

CHAPTER 14.1-01 - GENERAL PROVISIONS

14.1-01-01. Purpose and Policy Need. This Title sets forth uniform requirements for stormwater management systems within the City and its extraterritorial jurisdiction. It is the intent of the Board of City Commissioners that the requirements and standards contained in this Title comply with all applicable state and federal laws. In the event of any conflict between the provisions of this Title and the provisions of any erosion control, shoreland protection, or floodplain ordinance, or other regulations adopted by the City, County, State or Federal authorities, the more restrictive standard prevails.

The objectives of this Title are:

1. To promote, preserve, and enhance the natural resources within the City of Bismarck and its extraterritorial jurisdiction;
2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater management practices;

3. To protect the City and surrounding area's natural resources from adverse impacts caused by development or other activities;

4. To regulate land development, land disturbing, or other activities that may have an adverse and potentially irreversible impact on water quality and environmentally sensitive lands;

5. To minimize conflicts and encourage compatibility between land disturbing and development activities and environmentally sensitive issues (i.e. land, water, habitat, etc.);

6. To require detailed review standards and procedures for land development activities proposed throughout the City, and its extraterritorial jurisdiction, thereby achieving a balance between growth and development, and the protection of water quality;

7. To provide for the protection of surrounding or adjacent properties from water and wind erosion through the use of best management practices that meet the intended use; and

8. To provide for adequate stormwater system analysis and appropriate stormwater system design as necessary to protect public and private property, water quality, and existing natural resources; and This Title establishes and provides for the following stormwater management criteria:

a. The regulation of development through the issuance of stormwater permits and through the enforcement of general stormwater drainage requirements throughout the City and its extraterritorial jurisdiction. It also authorizes monitoring and enforcement activities, and provides for the setting of applicable fees for the equitable distribution of costs associated with the administration of the stormwater management program established herein.

b. The regulation of, and the establishment of criteria for, public underground storm sewers, artificial and natural open channel drainage systems, stormwater detention and retention ponds, and private

stormwater drainage systems ultimately discharging into the public system.

e. The regulation of development activities as they relate to managing stormwater volumes, rates of runoff, flow duration, and their subsequent impacts to downstream property, water quality, and stormwater management facilities.

d. Provides for a stormwater management system user charge and the method for calculating charges for each user classification. Procedures for rate adjustments and annual review criteria are established.

e. Penalties for violating the provisions of this Title, and the orders, rules, regulations and permits issued hereunder.

f. Applies in the City of Bismarck, North Dakota, and its extraterritorial jurisdiction, and to persons outside the City who are, by contract or agreement with the City, users of the City stormwater management system. Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this Title.

9. To comply with the requirements of the Municipal Separate Storm Sewer System (MS4) under the North Dakota Pollutant Discharge Elimination System (NDPDES).

(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-01-02. Transfer of Authority. The City may, through the use of a joint powers agreement, transfer the authority for the administration and/or enforcement of this Title in the City's extraterritorial area to another entity.

(Ord. 5853, 11-22-11)

14.1-01-03. Definitions. For the purpose of this Title, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

Agricultural Land Use: The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

Applicant: Any person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision wishing to engage in a land disturbance and/or land development activity or obtain a building permit, special use permit, zoning change, or subdivision approval, or stormwater permit that requires a mandatory stormwater management permit.

Base Flood or 100-year flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): The height of the base flood or 100-year flood, usually in feet above mean sea level, as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by the stormwater management plan prepared for the area in which the property is located.

Basis of Design Report: A refinement report required to document conformance with an approved stormwater management plan. A basis of design report is a required submittal for a post-construction stormwater management permit.

Best Management Practices or "BMPs": A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce increases in runoff rates and/or the pollution of downstream waters.

Board of City Commissioners: The Board of City Commissioners of the City of Bismarck.

Catchment: The area of a development project that collects stormwater to a discrete point of discharge or point of analysis.

Certification Report: The required analysis documenting that the facilities identified in an approved stormwater management plan have been constructed and function as intended. A certification report is a required submittal for a post-construction stormwater management permit.

City: The City of Bismarck.

City Engineer: The City Engineer of the City of Bismarck or a duly authorized representative of the City Engineer.

~~Control Measure: A practice or combination of practices to control erosion and attendant pollution.~~

Common Plan of Development or Sale: A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan, such as a phased housing development.

Conditional Approval: Tentative approval of a post-construction storm water management plan issued by the City Engineer prior to submittal of construction plans and specifications.

Construction Activity: As defined by the current North Dakota stormwater discharge General Construction Permit NDR10-0000, including, but not limited to, a disturbance to the land that results in a change in topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. Construction activity includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

Construction Plans: Engineered drawings detailing the size and character of post-construction stormwater management facilities and site development. Construction plans are a required submittal for a post-construction stormwater management permit.

Construction Stormwater Management: The implementation of appropriate temporary BMPs to minimize soil sediment or pollutants carried in runoff from construction activities.

Also included is the management of run-on and run-off of stormwater from the construction activities.

Construction Stormwater Management Permit: A permit requiring the implementation of construction BMPs during development and land disturbing activities so as to protect the Public Storm Sewer System and ensure that development activities are in conformance with the requirements of the MS4 General Permit and this Title.

Conveyance Structure: A pipe, open channel, or other facility that transports runoff from one location to another.

County: The County of Burleigh.

County Engineer: The County Engineer of Burleigh County or a duly authorized representative of the County Engineer.

Design Standards Manual: The Stormwater Design Standards Manual, as originally adopted by the Board of City Commissioners and as subsequently amended by technical amendments by the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.

Detention Facility: A natural or manmade structure, including wetlands, ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, or other structures, used for the temporary storage and controlled release of runoff. Such facilities are used to delay or attenuate flow, may contain a pool of water during times of storage, and may be dry during times of no runoff.

Development: Any man-made change to improved or unimproved property, including any land disturbing activity, construction or the subdivision of land of the following activities:

a. Structural development, including construction or demolition of a new building or other structure;

b. Non-structural development including the creation or paving of roads, parking lots, storage areas or similar activities;

c. Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;

d. Redevelopment of a previously developed site;

e. Land disturbing activities; or

f. Creation or expansion of impervious surfaces.

~~Development Properties: Lands and properties located within an approved stormwater permit boundary.~~

~~Developer: A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.~~

~~E.P.A.: The United States Environmental Protection Agency.~~

Erosion: Any process that wears away at the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

~~Erosion and Sediment Control Plan: A written description of the number, locations, sizes, and other pertinent information about best management practice methods designed to meet the requirements of this Title.~~

Extraterritorial Jurisdiction: The territorial zoning and subdivision authority of the City which extends to all unincorporated land located within four (4) miles of the corporate limits of the City, or as amended by agreement, as authorized by Section 40-47-01.1 of the North Dakota Century Code.

FEMA: The Federal Emergency Management Agency.

Fill: Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location, and shall include the resulting conditions.

~~Final Stabilization: Activities following rough grading of the site to permanently make the site steadfast or firm, minimizing soil movement by establishing a perennial vegetative grass cover by mulching and seeding, sodding, landscaping, concrete, gravel, or other permanent best management practices. The density of the vegetative cover shall be as required in the Design Standards Manual. The permanent cover of soils exposed or disturbed during development activities.~~

~~Floodplain or Flood-prone Area: Any land area susceptible to partial or complete inundation by water from any source.~~

~~Floodplain Administrator: The person designated by the City of Bismarck to administer the City's floodplain regulations.~~

~~Floodplain Management: The regulation of the nature and location of construction on (or other occupancy of) lands subject to inundation by flood waters, so that foreseeable (probable) flooding damages will have an average annual risk smaller than some preselected amount. Floodplain management consists of technical and nontechnical studies, policies, management strategies, statutes and ordinances that collectively manage floodplains along rivers, streams, major drainageways, outfalls, or other conveyances. The federal government normally plays a major role in floodplain planning and management, whereas in urban stormwater management and design, local governments dominate the decision-making process.~~

~~Floodway or Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.~~

~~Hydric Soils: Soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.~~

~~Hydrophytic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least~~

~~periodically deficient in oxygen as a result of excessive water content.~~

~~Illicit Discharge: Any discharge to, or seepage into, the City's MS4 that is not composed entirely of stormwater or uncontaminated groundwater except discharges pursuant to an NPDES permit. Examples include, but are not limited to, construction material discharges, discharging of sanitary sewers and runoff of spilled chemicals, fuels or lubricants. Exceptions to illicit discharges are included in the City's current MS4 General Permit.~~

~~Illicit Connection: A physical connection to the City's MS4 that primarily conveys non-stormwater discharges other than uncontaminated groundwater into the MS4; or a physical connection not authorized or permitted by the City of Bismarck, where a local authority requires authorization or a permit for physical connections.~~

~~Impervious Area: Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.~~

~~Impervious Surface: Any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), streets, sidewalks, patios, driveways and parking lots. For the purposes of mandatory stormwater permits, all road, driveway or parking surfaces, including gravel surfaces, shall be considered impervious.~~

~~Land Development Activity: The construction or demolition of buildings, roads, parking lots, paved storage areas, and similar facilities.~~

~~Land Disturbing Activity: Any manmade change of the land surface land alteration or disturbance that may result in erosion, sedimentation, or change in runoff including, but not limited to, removing vegetative cover, excavating, filling and grading removal of ground cover, grading, excavating or filling of land, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops[†], growing and tending of gardens[†], and harvesting trees.~~

~~Landowner: Any person holding title to or having an interest in land.~~

~~Land User: Any person operating, leasing, renting, or having made other arrangements with a landowner by which the landowner authorizes use of their land.~~

~~Local Detention: Detention provided to serve only the developing area in question and no areas outside of the development boundaries. This is also known as on-site detention.~~

~~Local Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system serving only the property within the development boundaries. This is also known as the on-site drainage system.~~

~~Major Stormwater System: The portion of the total stormwater system that collects, stores, and conveys runoff that exceeds the capacity of the minor system. The major drainageways are readily recognizable as natural or improved channels that convey runoff that exceeds the capacity of the minor drainage system, including emergency overflow facilities. It transports the minor and major stormwater runoff and serves more than the area within the development boundaries. The major system is usually less controlled than the minor system, and will function regardless of whether or not it has been deliberately designed and/or protected from encroachment, including when the minor system is blocked or otherwise inoperable. The major stormwater system is usually evaluated for the one hundred (100) year runoff event.~~

~~Management Practice: A practice or combination of practices to control erosion and water quality degradation.~~

~~Minor Stormwater System: The portion of the total drainage system that collects, stores and conveys frequently occurring runoff, and provides a relief from nuisance and inconvenience. This system has traditionally been carefully planned and constructed, and normally represents the major portion of the urban drainage infrastructure investment. The degree of inconvenience the public is willing to accept, balanced against the price it is willing to pay, typically establishes the drainage capacity or design recurrence frequency of a minor system. Minor systems include roof gutters and on-site drainage swales, curbed or side-swale streets, stormwater inlets, underground storm sewers, open channels and street culverts. Generally, the minor~~

stormwater system is designed to accommodate the minor (or ordinary) storm recurring at regular intervals, generally from two (2) to ten (10) years.

Multiple Purpose Facility: An urban stormwater facility that fulfills multiple functions, such as enhancement of runoff quality, erosion control, wildlife habitat, or public recreation, in addition to its primary purpose of conveying or controlling runoff.

Municipal Separate Storm Sewer System or "MS4": A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditched, man-made channels or storm drains:

a. Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act, that discharges to waters of the United States;

b. Designed or used for collecting or conveying stormwater;

c. Which is not a combined sewer; and

d. Which is not part of a publicly owned treatment works (POTW) as defined by 40 CFR 122.2.

National Pollution Discharge Elimination System (NPDES) Permit: Any permit or requirement enforced by the North Dakota State Department of Health pursuant to the Clean Water Act as amended for the purposes of regulating stormwater discharge.

NDDoH: The North Dakota Department of Health, Division of Water Quality.

Notice of Termination (NOT): Notification to the City and/or the NDDoH that all construction activities for a

project have been completed and exposed soils have achieved final stabilization.

Notice of Transfer (NOT): Documentation Notification to the City and/or the NDDoH indicating that the responsibilities of the mandatory stormwater management permit have been transferred along with the transfer of a parcel of land.

On-Site Detention: Detention provided to serve only the developing area in question and no significant areas outside of the development boundaries. This is also referred to as local detention.

Outfall Facility: Any channel, storm sewer, or other conveyance receiving water into which a storm drain or storm drainage system discharges.

Outlet: Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Owner or Occupant: Any person, firm, corporation, sole proprietorship, or partnership owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the City's stormwater system, and who pays for and is legally responsible for the payment of stormwater rates, special assessments or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

Permanent Development: Any buildings, structures, landscaping and related features constructed as part of a development project approved under a stormwater permit.

Permanent Facilities: Those features of a stormwater management plan which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operational capabilities. This includes but is not limited to storm sewers, infiltration areas, detention areas, channels, streets, etc.

Permittee: Any person who applies for and receives a stormwater or other permit under this Title.

~~Person: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency – public or private.~~

Pervious Surface: Any land cover that generally permits absorption of stormwater or snowmelt into the ground.

Point of Analysis: The location where run-off from development will be evaluated for compliance with the requirements of this Title. In general, this will be the location where post development flow rates must meet the existing conditions rates and water quality BMPs have been provided. The point of analysis may be located downstream of the point of discharge(s). The point of analysis will be determined by the City Engineer. In practicality, there may be more than one point of analysis on a site or for a project.

Point of Discharge: A location where stormwater discharges from development into the public storm sewer system or other receiving waters. In practicality, there may be more than one point of discharge on a site or for a project.

Post Construction Facilities: Permanent structural and non-structural best management practices to mitigate adverse impacts to stormwater quality and water quantity, identified in the approved storm water management plan, which are part of any natural or constructed stormwater system that require periodic or minimal maintenance to retain their operations capabilities. This includes, but is not limited to, storm sewers, infiltration areas, detention areas, channels, streets, etc.

Post Construction Stormwater Management: The implementation of appropriate permanent BMPs to address the stormwater quantity, quality and conveyance for development projects.

Post Construction Stormwater Management Permit: A permit requiring the implementation of permanent BMPs so as to protect the Public Storm Sewer System and ensure that development activities are in conformance with the requirements of the MS4 General Permit and this Title.

~~Private Drainage Channel: A drainage channel on privately owned land or easements which eventually discharges into a public drainage channel or public storm sewer.~~

~~Private Storm Sewer: A storm sewer on privately-owned land or easements which eventually discharges into a public drainage channel or public storm sewer.~~

~~Private Storm Sewer System: A system of conveyances designed or used for collecting or conveying stormwater on privately-owned land or easements which eventually discharges into the public storm sewer system. The private storm sewer system consists of both open and enclosed drainage systems (including roads with drainage systems, parking lots, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are owned and operated by private entities.~~

~~Public Drainage Channel: A drainage channel located entirely within a naturally occurring or constructed watercourse located on public lands or within a dedicated public easement.~~

~~Public Storm Sewer System: A storm sewer located entirely within publicly owned land or easements. A system of conveyances designed or used for collecting or conveying stormwater, owned or operated by the City and included in the City's municipal separate storm sewer system (MS4). The public storm sewer system consists of both open and enclosed drainage systems (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) that are owned or operated by the City and are designed to collect and convey stormwater and discharge, either directly to an MS4 owned or operated by another public body, or to other receiving waters.~~

~~Regional Detention: Detention facilities provided to serve an area outside the development boundaries. A regional detention site generally receives runoff from multiple stormwater sources.~~

~~Regional Drainage System: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system generally serving multiple sources or developments.~~

~~Retention Facility: A natural or manmade structure that provides for the storage of stormwater runoff by means of a pool of stored water. Such facilities are designed to eliminate subsequent surface discharge and, where applicable,~~

~~provide for the treatment of stormwater runoff. Wet ponds are the most common type of retention facility (although a wet pond may also be used as a detention facility).~~

~~Run-off: The rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds a public or private stormwater system.~~

~~Sediment: Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.~~

~~Site: The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the permit application.~~

~~Stabilize: To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measures.~~

~~State: The State of North Dakota.~~

~~Storm Sewer: A pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.~~

~~Stormwater: The flow of water which results from precipitation and which occurs during or immediately following rainfall or a snowmelt. Stormwater runoff, snowmelt runoff, surface runoff and drainage.~~

~~Stormwater Design Standards Manual: The current edition of the "Stormwater Design Standards Manual, Bismarck, North Dakota" available from the office of the City Engineer, which contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan.~~

~~Stormwater Easement: An easement dedicated for the purpose of conveying, detaining or retaining stormwater. This may be accommodated by installing storm sewer, or for conveying surface water by means of utilizing natural topography or constructing a drainage channel. Certain uses within this easement are prohibited, including but not~~

limited to, structures, trees, fences, and other elements or uses that may result in any obstruction to flows within this easement, or other incompatible uses, such as any portion of a private sewage disposal system.

Stormwater Management: The planned set of public policies and activities undertaken to regulate runoff under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions. The application of Best Management Practices (BMPs) to mitigate adverse impacts to stormwater quality and quantity, prevent sediments and other pollutants from entering surface or ground water; source controls; and treatment of runoff to reduce pollution.

Stormwater Management Criteria: Specific guidance provided to the engineer/designer in the Design Standards Manual to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology - the design storm.

Stormwater Management Plan (SWMP): A written document detailing stormwater runoff characteristics for a defined area and the management of that runoff to mitigate adverse impact to stormwater quality and quantity. A stormwater management plan is a required submittal for a post-construction stormwater management permit.

Stormwater Management System: Physical facilities that collect, store, convey, and treat stormwater runoff in areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

Stormwater Permit: A permit allowing land development and land disturbing activities so as to protect the ~~Public~~ ~~Stormwater~~ ~~Sewer~~ ~~System~~ such that development activities

are in conformance with the MS4 General Permit requirements and this Title.

Stormwater Program Coordinator: The person designated by the City of Bismarck to administer the NDPDES (MS4) permit and oversee the compliance and regulation of stormwater permits issued by the City or a duly authorized representative of the Stormwater Program Coordinator.

Structure: Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

Urban Area: Land associated with, or part of, a defined municipality.

User: Any person who discharges, causes or permits the discharge of stormwater into the public stormwater management system.

User Fee: A fee levied on users of a stormwater management system for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works. *(not used in ordinance)*

Watershed: An area of land where all surface water from rain, melting snow or ice converges to a single point at a lower elevation where the waters join another body of water, such as a river or lake.

Watershed Stormwater Master Plan: The plan that an engineer/designer formulates to manage urban and/or rural stormwater runoff for a particular development project or drainage area. It typically addresses such subjects as the characterization of the site development and grading plan; existing and projected conditions; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to the Board of City Commissioners for their review and acceptance or

~~adoption.~~ A stormwater management plan that characterizes and addresses run-off from a defined drainage area and makes recommendations for the implementation of regional facilities or BMPs to address peak flow and water quality compliance and/or regional drainage and conveyance systems. Watershed stormwater management plans that are adopted by the Board of City Commissioners are planning documents that provide drainage area specific refinements to stormwater management and performance requirements and design standards.

~~Wetlands:~~ Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes. Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

~~a. A predominance of hydric soils;~~

~~b. Are inundated or saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and~~

~~c. Under normal circumstances support the prevalence of such vegetation.~~

(Ord. 4817, 02-25-97; Ord. 5278, 09-23-03; Ord. 5853, 11-22-11)

14.1-01-04. Scope. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities for an approved development must ~~submit a stormwater management plan including an erosion and sediment control plan to the City Engineer~~ comply with the provisions of this Title and the Stormwater Design Standards Manual. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until ~~approval of the stormwater management plan or a waiver of the approval requirement has been obtained in strict conformance~~ the mandatory stormwater permits have been issued in accordance with the provisions of this Title. In addition, no land disturbing activities shall occur until ~~all initial best management practices (BMPs) have been implemented~~ the Construction Stormwater Management Permit is issued and the

necessary construction BMPs have been installed at the project site. A waiver of the stormwater management plan does not relieve the applicant from the stormwater permit requirements, including permit fees and an approved erosion and sediment control plan.

Exemptions to the requirements of this Title include:

1. Any part of a subdivision if a plat of the subdivision has been approved by the Board of City Commissioners and recorded with the County Recorder on or before the effective date of this Title (January 1, 1998). A stormwater permit for land disturbing activities on such properties may still be required in accordance with this Title;

2. Land disturbing activity involving the construction of a single-family or a two-family dwelling;

3. A parcel for which a building permit has been approved on or before the effective date of this Title;

41. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

52. Emergency work to protect life, limb, or property.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

CHAPTER 14.1-02 - STORMWATER MANAGEMENT PLAN PROGRAM

14.1-02-01. Application.

1. Application Procedure.

a. Written Application. A written application for stormwater management plan approval, along with the proposed stormwater management plan, shall be filed with the City Engineer. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this Title. Prior to applying for approval of a stormwater management plan, it is recommended that the applicant have the stormwater management plan reviewed by all affected public agencies.

b. ~~Copies.~~ The number of sets of legible copies of the drawings as indicated by the City Engineer and required information shall be submitted to the City Engineer and shall be accompanied by a receipt from the City to document the payment of all required fees for processing and approval as set forth herein. Plans shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed.

e. ~~Waiver.~~ The City Engineer may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements put forth in Chapter 14.1-05. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. At the City Engineer's discretion, a waiver request may, or at the request of a City Commissioner a waiver request shall, be brought before the Board of City Commissioners for consideration, and approval or denial.

2. ~~Contents of Stormwater Management Plan.~~ At a minimum, the stormwater management plan shall contain the following information:

a. ~~Written Report.~~ A written report discussing pre- and post-development hydrology and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns. The contents of the report shall be in accordance with the recommended format in the city's Design Standards Manual and shall contain the following additional information:

i. ~~The name and address of the applicant;~~

ii. ~~The section, township, and range;~~

iii. ~~The acreage of the development and the acreage of the disturbed area;~~

iv. ~~A description of the existing soils on the site, if necessary, including a map indicating~~

soil types of the areas to be disturbed, information on the suitability of the soils for the type of development proposed, potential for erosion, the type of stormwater management system proposed, and any remedial steps to be taken by the developer to render the soils suitable; and

v. The current land use of the area in which the site is located.

b. Maps. The following maps shall be included with the written report. Each map shall contain a north point indicator, date, scale of drawing, and the datum.

i. Location Map. The location of the tract at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, districts or other defining landmarks, and a watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin.

ii. Existing Site Conditions Map. A map of existing site conditions showing the site and immediately adjacent areas, including:

1. Existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two (2) feet;

2. A watershed boundary map illustrating the subwatersheds within the site or development;

3. A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, and any classification given to the water body by state or federal agencies;

4. Location and dimensions of existing stormwater drain systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where stormwater collects or passes;

5. Current extent of vegetative cover and a clear delineation of any vegetation proposed for removal; and

6. The 100-year flood plain and floodway as designated on a FEMA published digital flood insurance rate map (DFIRM) or as determined by a site specific analysis.

iii. Final Site Conditions Map. A plan of final site conditions on the same scale as the existing site conditions map showing the proposed site changes shall be provided, including:

1. The proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features. This grading plan should also indicate areas of cut and fill activity greater than three (3) feet;

2. A watershed boundary map illustrating the proposed subwatershed(s) within the site or development;

3. A drainage plan of the developed site delineating the direction of stormwater runoff and how it will be conveyed from the site and setting forth the areas of the site where stormwater will be collected along with the method of collection including ponds, storm sewer or channels;

4. The proposed size, alignment, and intended use of any structures to be erected on the site;

5. A clear delineation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

6. Any other information pertinent to the particular project which is necessary for the review of the project.

e. Erosion and Sediment Control Plan. The erosion and sediment control plan shall include a report and map containing information as outlined in the Design Standards Manual and the following information:

i. The locations and dimensions of all proposed land disturbing activities as they relate to the specified phases detailed in the Design Standards Manual;

ii. Approximate locations of all stockpile areas;

iii. Location and detailed description of all construction site best management practices (BMPs) necessary to meet the requirements of this Title;

iv. A schedule of anticipated starting and completion dates for each phase of activity, including the installation of construction site best management practices (BMPs) needed to meet the requirements of this Title; and

v. Provisions for maintaining the construction site best management practices (BMPs) throughout all phases of construction including prior to, during, and after construction. This shall include the installation of permanent control measures and the removal of temporary BMPs.

3. Certification. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall contain a

~~validated seal and be signed by a Professional Engineer registered in the State of North Dakota. This requirement will be met as part of the properly completed stormwater management plan, as described in the Design Standards Manual.~~

~~4. Fees. All applications for stormwater management plan approval shall be accompanied by a processing and approval fee established by the City Engineer. In the case of complex applications or regional stormwater facilities, a secondary fee schedule will be used as established by the City Engineer. All fees under this Title shall be reviewed and approved by the Board of City Commissioners.~~

~~(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)~~

~~**14.1-02-02. Review.**~~

~~1. Process. Stormwater management plans meeting the requirements of Section 14.1-02-01 shall be reviewed by the City Engineer for compliance with the standards of Section 14.1-02-03. For plans within the City's extraterritorial area, the City Engineer will provide copies of the stormwater management plan to the County Engineer and the Burleigh County Water Resource District for review and comment. After evaluation of the stormwater management plan, the City Engineer shall approve, approve with conditions, or deny the stormwater management plan. For plans within the City's extraterritorial area, the City Engineer will not approve a stormwater management plan without written concurrence of the County Engineer. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the City Engineer may bring the proposed stormwater management plan before the Board of City Commissioners for consideration and public comment.~~

~~2. Conditions. A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this Title are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, require the acquisition of certain lands or easements, and require the conveyance to the City of Bismarck or other public entity of certain lands or interests therein. The City Engineer may specify special requirements for~~

~~specific watersheds within the City and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform all of the conditions and requirements of the plan prior to any land disturbing activities.~~

~~(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)~~

~~**14.1-02-03. Approval Standards.**~~

~~1. General. This section describes approval standards against which proposed stormwater management plans will be measured. A stormwater management plan which fails to meet the standards contained in this section shall not be approved by the City Engineer or the Board of City Commissioners. Other standards, such as state and federal standards, shall also apply. If two standards of different agencies conflict, the more restrictive standards shall apply.~~

~~It shall be the responsibility of the applicant to obtain any required permits from other governmental agencies having jurisdiction over the work to be performed. Typically, such agencies could include the Burleigh County Water Resource District, the Burleigh County Engineer's Office, the State Water Commission and State Engineer's Office, the State Department of Transportation, the State Health Department, the State Historical Preservation Officer, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and possibly others.~~

~~In addition to this stormwater management ordinance, the applicant is responsible for adhering to the requirements of other ordinances contained within the Code of Ordinances for the City of Bismarek, including:~~

~~a. Zoning ordinance regulations contained under Title 14 which are of special interest to new development projects.~~

~~b. Conformance with the requirements of the FP-Floodplain District, Title 14, Section 14-04-19.~~

~~c. Regulations governing the subdivision of land, Title 14, Chapter 14-09.~~

d. Conformance with the Landscaping and Screening requirements in Title 14, Section 14-03-11.

The following sections describe routine approval standards to be used in evaluating a proposed stormwater management plan.

2. Stormwater Design Standards Manual. The Stormwater Design Standards Manual, as adopted and amended by the City of Bismarck, contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The Manual contains an overview of the City's Stormwater Management Policy and design objectives as well as a detailed discussion of the contents of stormwater management plans submitted to the City Engineer for approval. The Manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and rights-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

3. Models/Methodologies/Computations. Hydrologic models and design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities shall be approved in advance by the City Engineer.

14.1-02-01. Municipal Separate Storm Sewer System. The City of Bismarck is a designated Municipal Separate Storm Sewer System (MS4) under the Environmental Protection Agency's Stormwater Phase II Final Rule published on December 8, 1999 and is regulated under the North Dakota Pollutant Discharge Elimination System (NDPDES) by the North Dakota Department of Health. In order to demonstrate compliance with the requirements of the MS4 General Permit, all development activities within the City's zoning jurisdiction must comply with the provisions contained herein related to construction stormwater management permits and post-construction stormwater management permits.

14.1-02-02. Conformance with Local, State and Federal Regulations. In addition to the requirements contained herein, it is the responsibility of the applicant to obtain all required approvals from local, state and federal agencies for the proposed

project. Agencies that may require consultation or permits include the Burleigh County Highway Department, the Burleigh County Water Resource District, the North Dakota Department of Transportation, the North Dakota State Water Commission, the North Dakota Department of Health, the North Dakota State Historic Preservation Officer, the United States Army Corps of Engineers, the Federal Emergency Management Agency or the United States Environmental Protection Agency.

14.1-02-03. Stormwater Design Standards Manual. The Stormwater Design Standards Manual, as adopted and amended by the City of Bismarck, contains the principal standards and design criteria for complying with the City's stormwater management program. The Manual detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and requirements for easements and rights-of-way. The Manual also contains a discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

14.1-02-04. Waiver. The City Engineer may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary non-economic hardship, and the waiver of such requirement will not adversely affect the standards and requirements contained herein. The City Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. The City Engineer may not waive any requirement within the City's extraterritorial area without written concurrence of the County Engineer.

14.1-02-05. Illicit Discharges Prohibited. Illicit discharges, including dumping, into the public storm sewer system within the City of Bismarck or its extraterritorial area is prohibited.

CHAPTER 14.1-03 – CONSTRUCTION STORMWATER MANAGEMENT PERMITS

14.1-03-01. Construction Stormwater Management Permits (CSMP) Required. A construction stormwater permit is required in order to facilitate implementation of appropriate best management practices (BMPs) and protect water quality during development construction activities in areas within the corporate limits and areas within the extraterritorial area that contribute to the

City's MS4. Submittal and review requirements for a CSMP are dependent upon the size and scope of the project.

1. Small Site Construction Stormwater Management Permit. A small site construction stormwater management permit is required for construction activities applied for after January 1, 2018 that meet one or more of the following criteria:

a. Land disturbance greater than or equal to 3,000 square feet and less than 10,000 square feet, occurring on land with slopes of less than 12 percent; or

b. Construction of a one- or two-family residential home if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

2. Large Site Construction Stormwater Management Permit. A large site construction stormwater management permit is required for construction activities applied for after January 1, 2018, except for the construction of a one- or two-family residential home, that meet one or more of the following criteria:

a. Land disturbance greater than or equal to 10,000 square feet;

b. Construction activity disturbing any amount of land if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

c. Land disturbance greater than or equal to 3,000 square feet **and** disturbance of any size occurring on land with slopes of 12 percent or more;

d. Land disturbance activities that involves the excavation or filling in excess of 400 cubic yards of material regardless of surface area;

e. Land disturbing activity that disturbs more than 200 feet of road ditch, grassed waterway or other land area where surface drainage flows in a defined open channel. This includes the replacement, repair or

removal of any underground pipe, utility or other facility within the cross-section of the channel, regardless of the surface area;

f. Land disturbing activity as a result of any new public or private road(s) or access drive(s) longer than 150 feet, regardless of the surface area;

g. When discharges from a construction site violate illicit discharge requirements of this Title, regardless of surface area; or

h. Any other activity, including the construction of a one- or two-family residential home, that the City Engineer determines to have a high risk of soil erosion or water pollution, or that may significantly impact an open waterway, stream or wetland area.

3. City Contracted Projects. Projects contracted by the City of Bismarck shall meet the submittal and approval requirements of a Large Site Construction Stormwater Management Permit.

4. North Dakota Department of Health Construction General Permit. All projects that result in land disturbance activity that meets the minimum threshold outlined in the North Dakota Department of Health Construction General Permit are required to obtain a Construction Stormwater Management Permit from the City and coverage from the North Dakota Department of Health under the Construction General Permit.

5. Exclusions. The following activities are excluded from obtaining a mandatory Construction Stormwater Management Permit:

a. Plowing or tilling for agricultural purposes;

b. Emergency activity that is immediately necessary for the protection of life, property or natural resources;

c. Construction of a one or two-family dwelling within the City's extraterritorial area, with the understanding that erosion control measures are implemented on-site during construction by the builder;

d. Construction of any project in the City's extraterritorial area, other than a one or two-family dwelling, that does not contribute to the City's MS4, with the understanding that erosion control measures are implemented on-site during construction by the builder; or

e. Other construction activities that are determined by the City Engineer to not have potential for adverse impact on stormwater quality.

14.1-03-02. Small Site Construction Stormwater Management Permits.

1. Application Required. An application for a small site construction stormwater management permit shall be submitted prior to or concurrently with an application for a building permit for one- or two-family dwellings or other projects that meet the thresholds outlined in Section 14.1-03-01. Site development activities shall not commence until said application has been approved and best management practices (BMPs) are in place.

2. Submittal Requirements. The submittal requirements for a small site construction stormwater management permit are outlined in the City's Stormwater Design Standards Manual.

3. Review and Approval Procedures. The review and approval procedures are outlined in the City's Stormwater Design Standards Manual. A building permit will not be issued and no site development activities may commence until the small site construction stormwater management permit has been approved and BMPs are properly installed.

4. Transfer of Permit. Small site construction stormwater management permits cannot be transferred to a subsequent owner.

5. Termination of Permit. During construction, stormwater management best management practices (BMPs) must be installed and remain in place until final stabilization, as outlined in the City's Stormwater Design Standards Manual, has been achieved on the site. When final stabilization has been achieved, the applicant shall submit a Notice of Termination (NOT) request to the City Engineer. Upon review

and approval by the City Engineer, the applicant will be notified that the authorization has been terminated.

14.1-03-03. Large Site Construction Stormwater Management Permits.

1. Application Required. An application for a large site construction stormwater management permit shall be submitted concurrently with the submittal of construction drawings or, if review of construction drawings is not required, a minimum of 30 days prior to commencement of construction for projects that meet the thresholds outlined in Section 14.1-03-01. Site development activities shall not commence until the large site construction stormwater management has been approved and best management practices (BMPs) are in place.

2. Submittal Requirements. The submittal requirements for a large site construction storm water permit are outlined in the City's Stormwater Design Standards Manual. The submittal package shall be prepared and sealed by a registered professional engineer.

3. Review and Approval Procedures. The review and approval procedures are outlined in the City's Stormwater Design Standards Manual. A building permit will not be issued and no site development activities may commence until the large site construction stormwater management permit has been approved.

4. Transfer of Permit. Upon a change of ownership of a property subject to a large site construction stormwater management permit, the original permittee must submit a request for permit transfer/modification to the City Engineer. A permit transfer/modification request is not required for the legal transfer, sale or closing on a property between permittees covered by a separate construction stormwater management permit (such as the transfer of a lot from the developer to a builder).

5. Termination of Permit. During construction, stormwater management best management practices (BMPs) must be installed and remain in place until final stabilization, as outlined in the Storm Water Design Standards Manual, has been achieved on the site. When final stabilization has been

achieved, the applicant shall submit a Notice of Termination (NOT) request to the City Engineer.

CHAPTER 14.1-04. POST-CONSTRUCTION STORMWATER MANAGEMENT PERMITS.

14.1-04-01. *Post-Construction Stormwater Management Permits.*

A post construction stormwater management permit addresses the long-term or permanent function of drainage facilities for development projects. A post-construction stormwater management permit is required for development projects applied for after January 1, 2018 in areas within either the corporate limits or the extraterritorial area that meet one or more of the following criteria:

1. Development projects resulting in a cumulative addition of 20,000 square feet or more of impervious surface;

2. Any development project that results in construction activity disturbing any amount of land if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more;

3. Land disturbing activity that involves excavating and/or filling in excess of 400 cubic yards of material, regardless of surface area;

4. Any development activity that requires approval of a subdivision under Title 14 of the City Code of Ordinances or any development project that requires approval of a site plan; or

5. Any other activity that the City Engineer determines to have a high risk for water quality or quantity impacts to the public storm sewer system or adjoining property.

14.1-04-02. *Review and Approval Procedures.* Post-Construction Stormwater Management Permit submittal, review and approval procedures are outlined in the City's Stormwater Design Standards Manual.

14.1-04-03. *Mandatory Stormwater Management Scoping Sheet.* Prior to the submittal of an application for a post-construction stormwater management permit, the applicant shall complete a pre-submittal scoping sheet and submit it to the City Engineer. The City Engineer will review the basic project information submitted

by the applicant and will add information to the scoping sheet regarding the required point of analysis and level of effort required for the stormwater management application. For projects within the extraterritorial area, the City Engineer shall obtain concurrence from the County Engineer prior to approving the scoping sheet. A copy of the approved scoping sheet is a required component of the post-construction stormwater management permit application.

14.1-04-04. Conditional Approval. Conditional approval of a post-construction stormwater management permit is required prior to submittal of an application for approval of the associated final plat, minor subdivision final plat or site plan. In order to provide adequate time for review and approval, applications for conditional approval of a post-construction stormwater management permit should be submitted no less than thirty (30) days prior to the submittal of an application for approval of a final plat, a minor subdivision final plat or a site plan. For projects that do not require approval of a site plan or a final plat, the application for conditional approval shall be submitted no less than sixty (60) days prior to construction.

1. Submittal Requirements. The submittal requirements for conditional approval of a post-construction stormwater management permit are outlined in the City's Stormwater Design Standards Manual. The submittal package shall be prepared and sealed by a registered professional engineer.

2. Review and Conditional Approval Procedures. The review and conditional approval procedures for a post-construction stormwater management permit are outlined in the Stormwater Design Standards Manual. For projects within the City's extraterritorial area, the City Engineer will provide copies of the stormwater management plan to the County Engineer for review and comment. For projects within the extraterritorial area, the City Engineer shall obtain written concurrence from the County Engineer prior to granting conditional approval of the post-construction stormwater management permit. Upon conditional approval of the post-construction stormwater management permit, the City Engineer will provide the applicant with the original signed copy of the conditional permit by mail or in person and a copy via e-mail. A copy of the conditional permit shall be submitted with the application for approval of a final plat, minor subdivision final plat or site plan.

3. Expiration of Conditional Approval. If a project receiving conditional approval is not initiated within one (1) year of the date of conditional approval, the conditional approval shall expire.

14.1-04-05. Material Submitted After Conditional Approval.

After obtaining conditional approval of a post-construction stormwater management permit, construction plans and specification, geotechnical reports and operation and maintenance plans may be submitted.

41. Construction Plans and Specifications.

a. Construction Plans and Specifications for Public Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of public stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. ~~Be consistent with the stormwater management plan approved by the City Engineer. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.~~

2. Be in conformance with the requirements of the City of Bismarck Construction Specifications for Municipal Public Works Improvements, current special provisions, and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the City Engineer for approval.

5. ~~Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control~~

~~requirements during and after construction operations. Be submitted concurrently with the application for approval of a large site construction management permit.~~

No construction may commence until the construction plans and specifications have been approved by the City Engineer and all other applicable permits and approvals are received from outside agencies.

b. Construction Plans and Specifications for Private Facilities within the Corporate Limits. The construction plans and specifications prepared for the construction of private stormwater management facilities within the corporate limits or on land that will be annexed prior to development must:

1. ~~Be consistent with the stormwater management plan approved by the City Engineer. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.~~

2. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

3. Be submitted to the City Engineer for approval.

4. ~~Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations. Be submitted concurrently with the application for approval of a large site construction management permit.~~

No construction may commence until all applicable permits and approvals are received from the City and outside agencies.

c. Construction Plans and Specifications for Public Facilities within the Extraterritorial Area. The construction plans and specifications prepared for the construction of public stormwater management facilities within the extraterritorial areas must:

1. ~~Be consistent with the stormwater management plan approved by the City Engineer. Include a basis of design report demonstrating consistency with the approved storm water management plan and conditionally approved post-construction stormwater management permit.~~

2. Be in conformance with the requirements of the Burleigh County Highway Department and any other necessary permits issued by other governmental agencies.

3. Be sealed and signed by a Professional Engineer registered in the State of North Dakota.

4. Be submitted to the County Engineer for approval.

5. ~~Contain a drawing or drawings delineating the erosion and sediment control plan, including details of silt fences, storm drain inlet protection, and other best management practices (BMPs). The construction specifications shall contain technical specifications describing erosion, sedimentation and water control requirements during and after construction operations. Be submitted concurrently with the application for approval of a large site construction management permit.~~

No construction may commence until the construction plans and specifications have been approved by the County Engineer and all other applicable permits and approvals are received from outside agencies.

2. Operations and Maintenance Manual. An operations and maintenance manual shall be submitted in conjunction with construction plans and specifications for public projects within the corporate limits and for private projects within both the corporate limits and the extraterritorial area. An

operations and maintenance manual shall be submitted for each post-construction stormwater management control, in accordance with the provisions of the Stormwater Design Standards Manual.

3. Access and Drainage Easements. The City Engineer may require that an easement be recorded to allow for continued access to constructed stormwater management facilities within or adjacent to the corporate limits, to provided cross parcel drainage easements and for other elements that are deemed necessary. All required access and drainage easements shall be prepared by a professional land survey, reviewed by the City Engineer and recorded at the Burleigh County Recorder's Office, with a copy of the recorded document provided to the City Engineer.

~~5. Construction Activities. Construction operations must at a minimum comply with the following requirements:~~

~~a. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site; the receiving channels; or any wetland.~~

~~b. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff or wind into a receiving channel, storm sewer system, or wetland.~~

~~c. Tracking Management. Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways prior to any land disturbing activities. Any material reaching or placed on a public or private road shall be removed (not by flushing) before the end of each work day or more frequently as needed.~~

~~d. Chemical Contamination. The construction contractor shall be required to control oil and fuel~~

spills, and the discharge of any chemicals to prevent such spills or discharges from entering any water course, sump, sewer system, water body, or wetland.

e. Site Erosion and Sedimentation Control. Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, for wind and water erosion, standards and specifications contained in the Stormwater Design Standards Manual.

f. Concrete Wash out Area. The developer or his construction contractor shall identify and construct a concrete wash out area to standards and specifications contained in the Design Standards Manual. The party responsible for the installation of the concrete wash out area is responsible for maintenance and removal.

6. Stormwater Management Criteria for Permanent Facilities. Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:

a. Pre versus Post Hydrological Response of Site. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to manage increased runoff so that the two (2) year, ten (10) year and one hundred (100) year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity.

b. Natural Features of the Site. The applicant shall reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of these natural features.

e. ~~Stormwater Management Strategies.~~ The following stormwater management practices shall be investigated in developing a stormwater management plan:

i. ~~Natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than to adjoining streets, storm sewers and ditches. This shall include the identification of areas with known high water tables, natural springs and other areas with ground water implications.~~

ii. ~~The flow attenuation by use of open vegetated swales and natural depressions.~~

iii. ~~Stormwater detention facilities.~~

iv. ~~Stormwater retention facilities (on a case by case basis).~~

v. ~~Storm sewer facilities.~~

~~A combination of successive practices may be used to achieve the applicable minimum control requirements specified in the above strategies. Justification shall be provided by the applicant for the method selected.~~

d. ~~Adequacy of Outlets.~~ The adequacy of any outlet used as a discharge point for proposed stormwater management facilities must be assessed and documented to the satisfaction of the City Engineer. The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, or streets shall be sufficient to receive post-development runoff discharges and volumes without causing increased property damages, an increase in the established base flood elevation (BFE), or a change in the conveyance of the base flood. If a floodplain or floodway has not been established by the Federal Emergency Management Agency, then the applicant shall provide a documented analysis and estimate of the

base flood elevation as certified by a Professional Engineer registered in the State of North Dakota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the City Engineer are approved and installed as part of the stormwater management plan. The assessment of outlet adequacy shall be included in the stormwater management plan and shall be certified by a Professional Engineer registered in the State of North Dakota.

e. Stormwater Detention/Retention Facilities. Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the Design Standards Manual.

7. Operation, Maintenance and Inspection. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The City Engineer or Stormwater Program Coordinator may inspect all stormwater management facilities at any time. Inspection records will be kept on file with the Stormwater Program Coordinator. It shall be the responsibility of the applicant to obtain any necessary public easements or other property interests to allow access to the stormwater management facilities for inspection and maintenance purposes. The City Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions and penalties for noncompliance orders.

8. Easements and Bonds. Easements or bonds may be required as conditions to the issuance of a permit.

9. Management of Site Vegetation. The applicant shall provide for the installation and maintenance of vegetation on development property in accordance with the following criteria:

a. Use of Impervious Surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves,

~~or other vegetative materials on impervious surfaces, or within stormwater drainage systems with impervious liners or conduits including streets and gutters.~~

~~b. Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved, all areas shall be covered by plants, or an approved vegetative cover or non-erosive pervious surface.~~

~~c. Use of Pervious Surfaces. No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade drainageways, wetlands, or within wetland buffer areas.~~

~~10. Plan Applicability. A plan issued under this title runs with the land and is a condition of plat approval. Any owner or subsequent owner of any parcel within the plat must comply with the plan or any approval, revision or modification of the plan. Any owner or subsequent owner shall be aware of and responsible for continued implementation of this plan.~~

~~11. Duration. Approval of any plan submitted under the provisions of this Title shall expire one (1) year after the date of approval unless a stormwater permit is issued and construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the City Engineer may grant one extension of not greater than one (1) year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt.~~

~~12. Revisions and Resubmittals. Any plan may be revised in the same manner as originally approved and resubmitted. Any denied application may be resubmitted with additional information addressing the concerns contained within the denial. The resubmittal is subject to all applicable fees and shall be considered as a new application.~~

14.1-02-04 Stormwater Permits.

1. Stormwater Management. It is unlawful to initiate land development, land disturbing, or other activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the City, without having first complied with the terms of this Title.

2. Stormwater Permits.

a. Mandatory Permits. Any person proposing a development or project which involves land development, land disturbing, or other activities as defined in this Title, shall obtain a stormwater permit before initiating those activities. If the stormwater management plan submittal requirement is waived or deemed exempt by the City Engineer, a stormwater permit must be obtained in accordance with this section.

b. Permit Application. All persons subject to meeting the requirements for a mandatory stormwater permit shall complete and file with the City Engineer an application in the form prescribed by the City Engineer and accompanied by a fee established by the City Engineer and adopted by the Board of City Commissioners. The permit application shall be accompanied by the following:

i. A phased erosion and sediment control plan;

ii. A final grading plan;

iii. An approved or revised stormwater management plan as prescribed under Section 14.1-02-01 of this Title or a waiver of this requirement.

iv. Verification that all best management practices (BMPs) have been installed; and

v. The applicable fee.

The City Engineer will evaluate the data furnished as part of the stormwater management plan and may require additional information. For permit applications within the City's extraterritorial area, the City Engineer will provide copies of the permit application to the County Engineer for review and comment. After evaluation and acceptance of the stormwater management plan, the City Engineer may issue a stormwater permit subject to any terms and conditions deemed necessary. For permit applications within the City's extraterritorial area, the City Engineer will not approve a stormwater permit without written concurrence of the County Engineer.

e. Permit Conditions. Stormwater permits are issued subject to all provisions of this Title and all other applicable regulations, user charges and fees established by the City. Permits may contain any of the following conditions:

i. Limits on the maximum rate of stormwater discharge;

ii. Limits on water quality degradation of stormwater discharge;

iii. Requirements for the installation, operation and maintenance of stormwater detention/retention facilities;

iv. Compliance schedule;

v. Requirements for notification to and acceptance by the City Engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality; and

vi. Other conditions as deemed appropriate by the City Engineer to insure compliance with this Title.

d. Permit Duration. Permits must be issued for a time period specified by the City Engineer. The applicant shall apply for permit renewal a minimum of thirty (30) days prior to the expiration of the applicant's existing permit. The terms and conditions

of a permit are subject to modification by the City Engineer during the term of the permit as set forth herein. Failure to renew the permit prior to the expiration date will require the permittee to pay a late fee as prescribed by the City Engineer. While the permit may have expired, the permittee remains responsible for the activities and site governed under the permit until the permit is terminated.

e. Permit Modification. Permits may be modified by the City Engineer for just cause upon thirty (30) calendar days' notice. Just cause shall include but not be limited to:

i. Promulgation of a new applicable nationwide or statewide permit standard;

ii. Changes in the requirements of this Title;

iii. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and

iv. Changes in the design or capability of receiving stormwater facilities.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

f. Permit Amendments. Stormwater permits may be amended only by a written request submitted by the Permittee to the City Engineer. This request shall contain the reason for the change, documentation related to any additional impacts which may result from amendment approval, and shall include an amendment to the approved stormwater management plan. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines as used for a new stormwater permit application under this Title.

g. Permit Transfer. A permit runs with the property it covers and is transferable to new owners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. A Notice of Transfer is required in conjunction with the transfer of a parcel of land. The current permittee is responsible for submitting the required notice of Transfer to the Stormwater Program Coordinator within ten (10) business days of the transfer of a parcel of land.

h. Monitoring Facilities. The City Engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater facility component. Where at all possible, the monitoring facility shall be located on the property of the applicant as opposed to on public rights-of-way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

i. Inspection. The City Engineer or Stormwater Program Coordinator may inspect the stormwater management facilities of any permittee to determine compliance with the requirements of this Title. A permittee shall allow the City Engineer or Stormwater Program Coordinator to enter upon the premises at all reasonable hours for the purposes of inspection, sampling or record examination. The City Engineer or Stormwater Program Coordinator shall be allowed to set up equipment on the permittee's premises as required for the purpose of collecting samples and flow recording.

j. Termination. A stormwater permit shall be terminated after a review by the City Engineer has determined that a development site has been fully constructed and is reasonably protected from erosion based on constructed conditions. A termination review shall be requested by the permittee or may be initiated by the City Engineer after the expiration date of the permit.

Prior to termination of the stormwater permit an amended stormwater management plan must be submitted to

~~the City Engineer documenting any changes to the original stormwater management plan. The amended stormwater management plan shall be certified by a Professional Engineer registered in the State of North Dakota.~~

~~(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)~~

14.1-04-06. Completion and Final Approval.

1. Completion and Certification. Upon completion of the project, a Certification Report shall be submitted to the City Engineer. The Certification Report shall certify that installed BMPs are consistent with the conditionally approved Post Construction Stormwater Management Plan (PCSMP), or report that BMPs are not consistent with the conditionally approved PCSMP. The Certification Report requirements are outlined in the Stormwater Design Standards Manual.

2. Record Drawings Required. For public projects, record drawings of the project shall also be submitted to the City Engineer.

3. Final Inspection. Upon submittal of the Certification Report and required record drawings, the City Engineer will perform a final inspection of the site. Upon satisfactory completion of the final inspection, final approval of the Post Construction Stormwater Management Plan will be issued.

CHAPTER 14.1-035 - ENFORCEMENT

14.1-035-01. Remedies and Enforcement Powers. The City shall have the following remedies and enforcement powers:

1. Withhold Permits. The City may deny or withhold all permits, certificates or other forms of authorization as to any applicant for a **construction** stormwater **management** permit. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this Title or of a

condition or qualification of a permit, certificate, approved stormwater management plan or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the construction stormwater management permit or other approval is sought is the property in violation.

2. Revocation of Construction Stormwater Management Permits. A construction stormwater management permit may be revoked when the City Engineer determines that:

a. There is departure from the plans, specifications, or conditions as required under terms of a construction stormwater management permit or approved post-construction stormwater management plan permit;

b. The plans, specifications, or conditions were obtained by false representation or the construction stormwater management permit was issued by mistake; or

c. Any of the provisions of this Title are being violated as to the project under the construction stormwater management permit.

3. Revocation of a Post-Construction Stormwater Management Plan Permit or Other Approval. When a violation of this Title involves a failure to comply with an approved post-construction stormwater management plan permit or conditions to which the approval of such plan permit was made subject, the City Engineer may, upon giving proper notice, revoke the plan permit approval or other approval, allow work to continue on condition of strict compliance with all applicable rules and regulations, or impose such other conditions as the City Engineer deems appropriate and necessary.

4. Suspension of Post-Construction Stormwater Management Plan Permit or Construction Stormwater Management Permit. The City Engineer shall have authority to suspend a post-construction stormwater management plan permit or a construction stormwater management permit upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of suspension

notice and order, all work in the area covered by the ~~plan~~ and/or permit, shall cease immediately. If any person fails to comply with the suspension order, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the suspension order upon proof of compliance with all ~~post-construction~~ stormwater management ~~plan permit~~ or a ~~construction~~ stormwater ~~management~~ permit conditions.

Whenever the City Engineer orders the suspension of a ~~post-construction~~ stormwater management ~~plan permit~~ or a ~~construction~~ stormwater ~~management~~ permit and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the permittee personally, or by registered or certified mail. The permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

5. Stop Work Order. The City Engineer shall have authority to issue a stop work order, ordering suspension of all work and activity at the site, upon finding that an actual or threatened discharge exists or when such conditions present an imminent or substantial danger to the health or welfare of persons downstream, the environment, natural resources, stormwater quantity, water quality, and/or environmentally sensitive lands. Upon issuance of a stop work order, all work in the area covered by the ~~construction~~ stormwater ~~management~~ permit, if a permit has been issued, shall cease immediately. If any person notified of such stop work order fails to comply, the City shall commence whatever steps are necessary to obtain compliance. The City Engineer may lift the stop work order upon proof of compliance with all ~~post-construction~~ stormwater management ~~plan permit~~ or a ~~construction~~ stormwater ~~management~~ permit requirements and conditions.

Whenever the City Engineer issues a stop work order and declares the situation to be an emergency, the City Engineer shall serve a notice and order on the person performing the work personally, or by registered or certified mail. The person performing the work, owner or permittee has the right to an informal hearing before the City Engineer by making an appointment with the City Engineer. The informal hearing

must be held within five (5) days of service of the notice and order. Following the hearing, the City Engineer may affirm, modify or rescind the stop work order.

6. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Title or of a construction stormwater management permit, a post-construction stormwater management plan permit, certificate or other form of authorization granted hereunder.

7. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

8. Restitution. The City may seek an order requiring restitution as a condition to be met by a person before the person's construction stormwater management permit is restored, before the person is allowed to lawfully discharge into the sewer system City's MS4, or before other action may be taken by the person as determined by an appropriate order.

9. Costs of Damage. Any person violating any of the provisions of this Title or who initiates an activity that causes a deposit, obstruction, or damage or other impairment to the City's stormwater management system MS4 is liable to the City for any expense, loss, or damage caused by the violation or the discharge. The City may bill the person violating this Title the costs of any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

10. City Attorney's Fees and Costs. In addition to the fees and penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation by appropriate action against the person found to have violated this Title or the orders, rules, regulations and permits issued hereunder.

11. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by North Dakota law and municipal codes for the violation of this Chapter or related provisions.

12. Remedies Cumulative. The remedies and enforcement powers established in this Chapter are cumulative.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-035-02. Administrative Search Warrant. Whenever the City Engineer is denied access to a property to inspect for compliance with this Title, he/she may secure an administrative search warrant from the municipal judge in accordance with Chapter 29-29.1, N.D.C.C.
(Ord. 5853, 11-22-11)

14.1-035-03. Notice and Order. Except for emergency orders under Section 14.1-05-01(4) and (5), whenever the City Engineer finds that any person has violated or is violating this Title, a construction stormwater management permit and/or its conditions, an approved post-construction stormwater management plan permit, or any prohibition, limitation or requirement contained herein, the City Engineer shall serve upon such person a written notice and order stating the nature of the violation. Within thirty (30) days of the date of the notice, unless a different time frame is set by the City Engineer due to the nature of the violation, the correction thereof must be completed to the satisfaction of the City Engineer.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-035-04. Appeal. All decisions of the City Engineer dealing with violations of a construction stormwater management permit or this Title or the issuance or non-issuance of the permits required by this Title are subject to appeal to the Board of City Commissioners upon written notice of appeal filed within fifteen (15) days of issuance of the decision. If no appeal is filed within the time period specified, the decision of the City Engineer is final. An appeal stays the City Engineer's decision unless the City Engineer declares the order to be an emergency and certifies to the ~~to~~ Board that a stay would cause imminent danger to life and property in which case the decision may be stayed only by a restraining order from the Board of City Commissioners or a court of record.
(Ord. 5853, 11-22-11)

14.1-035-05. Hearing. Upon receiving the notice of appeal the Board of City Commissioners shall set a date for a hearing within thirty (30) days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the appellee by certified mail or in person not less than five (5) days prior to the hearing.
(Ord. 5853, 11-22-11)

CHAPTER 14.1-046 PENALTIES

14.1-046-01. Penalty. Any person who fails to comply with a final or un-stayed decision of City Engineer or a decision of the Board of City Commissioners after a hearing or who has failed to comply with any provision of this Title and the orders, rules, regulations and permits issued hereunder, is guilty of an ordinance violation and subject to the provisions of Chapter 1-02 of the City Code (Penalties). Each day the violation continues constitutes a separate offense.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

14.1-046-02. Abatement. The imposition of a penalty provided by the provisions of this Title shall not preclude the City from instituting proceedings to restrain, correct or abate a continuing violation of this Title. If any person violates any of the provisions of this Title or initiates an activity which causes a deposit, obstruction, or damage or other impairment to the City's ~~stormwater management system~~ MS4 and within ten days of a final order issued under this Chapter, fails to obey that order, the City Engineer is hereby authorized to restrain, correct or abate the violation and have the costs incurred assessed against the property.
(Ord. 5853, 11-22-11)

14.1-046-03. Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, or other document filed or required to be maintained pursuant to this Title, or ~~construction~~ stormwater ~~management~~ permit, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this Chapter, shall be guilty of an offense.
(Ord. 4817, 02-25-97; Ord. 5853, 11-22-11)

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect on ~~January 1, 2018~~ following final passage, adoption and publication.

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
May 24, 2017

The Bismarck Planning & Zoning Commission met on May 24, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Susan Axvig, Mike Donahue, Vernon Laning, Doug Lee, Mike Schwartz, Mike Seminary, Lisa Waldoch and Wayne Yeager.

Commissioners Tom Atkinson, Brian Bitner and Gabe Schell were absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Will Hutchings – Planner, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Hilary Balzum – Community Development Administrative Assistant, Charlie Whitman – City Attorney.

MINUTES

Chairman Yeager called for consideration of the minutes of the April 26, 2017 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the April 26, 2017 meeting, as presented. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

CONSIDERATION

- A. LOT 7, BLOCK 11, NORTHERN PACIFIC ADDITION – ZONING CHANGE**
- B. TITLE 14.1 (STORMWATER MANAGEMENT) – ZONING ORDINANCE TEXT AMENDMENT**
- C. CHAPTER 14-03-10 (OFF-STREET PARKING AND LOADING/OFF-STREET PARKING) – ZONING ORDINANCE TEXT AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda item:

- A. Lot 7, Block 11, Northern Pacific Addition – Zoning Change
- B. Title 14.1 (Stormwater Management) – Zoning Ordinance Text Amendment
- C. Chapter 14-03-10 (Off-Street Parking and Loading/Off-Street Parking) – Zoning Ordinance Text Amendment

MOTION: Commissioner Lee made a motion to approve consent agenda items A, B and C calling for public hearings on the items as recommended by staff. Commissioner Laning seconded the motion and it was unanimously approved

with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – MINOR SUBDIVISION FINAL PLAT
SONNET HEIGHTS SUBDIVISION EIGHTH REPLAT**

Chairman Yeager called for the public hearing on the minor subdivision final plat for Sonnet Heights Subdivision Eighth Replat. The proposed plat is 13 lots in one block on 3.38 acres and is located in north Bismarck, along the south side of 57th Avenue NE, in the southwest quadrant of the intersection of 57th Avenue NE and Normandy Street (a replat of Lots 1-3, Block 1, Sonnet Heights Subdivision).

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The stormwater management plan for the subdivision has been approved by the City Engineer.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn noted that a sight triangle had been added to the intersection of Normandy Street and 57th Avenue NE to prevent any obstructions to the visibility at this intersection.

Mr. Nairn said, based on the findings contained in the staff report, staff recommends approval of the minor subdivision final plat of Sonnet Heights Subdivision Eighth Replat, with the following conditions:

1. A continuous non-access line is shown along the entire 57th Avenue NE right-of-way.
2. The proposed emergency services easements are signed for no parking on either side of the street prior to the issuance of a building permit in the development.

Commissioner Laning asked what the emergency vehicle turnaround construction standard is. Mr. Nairn stated that standard is not specified but he would assume it to be the same as the private drive surface material. He said that item can be specified and added to the conditions if necessary.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Schwartz made a motion to approve the minor subdivision final plat of Sonnet Heights Subdivision Eighth Replat, with the following conditions: 1. A continuous non-access line is shown along the entire 57th Avenue NE right-of-way; and 2. The proposed emergency services easements are signed for no parking on either side of the street prior to the issuance of a building permit in the development. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARINGS – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT SOUTH MEADOWS 2ND ADDITION

Chairman Yeager called for the public hearing on the minor subdivision final plat and the zoning change from the R5-Residential zoning district to the R10-Residential zoning district for South Meadows 2nd Addition. The proposed plat is 12 lots in one block on 2.24 acres and is located in southwest Bismarck, west of South Washington Street in the southeast quadrant of the intersection of Meridian Drive and West Burleigh Avenue (a replat of Lot 2, Block 1, Burleigh Avenue Addition).

Ms. Wollmuth said the proposed minor subdivision final plat is a replat of Lot 2, Block 1, Burleigh Avenue Addition, which was approved in 2009, and includes an existing 30-foot access easement south West Burleigh Avenue and along the east side of Lot 2. She said the access easement was originally dedicated in 1983 and provides access from West Burleigh Avenue to both lots in Burleigh Avenue Addition and added that a copy of Burleigh Avenue Addition was included in the packet. Ms. Wollmuth explained that the proposed replat includes a private road (Kenely Drive) which is intended to serve the development from a public roadway (Meridian Drive), which is located along the west side of the proposed plat and that the proposed private road could also serve the property to the east of the proposed subdivision (Lot 1, Block 1, Burleigh Avenue Addition), upon future development. She said if Kenley Drive serves the property to the east in the future, the existing access off West Burleigh Avenue may be removed.

Ms. Wollmuth gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change generally is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.

3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth then gave the findings related to land use for the final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The stormwater management plan for the subdivision has been approved by the City Engineer.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the R5 – Residential zoning district to the R10 – Residential zoning district and the minor subdivision final plat for South Meadows 2nd Addition.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning change from the R5 –

Residential zoning district to the R10 – Residential zoning district and the minor subdivision final plat for South Meadows 2nd Addition. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

Hay Creek Township Supervisor Dave Pearce joined the meeting at this time.

CONTINUED PUBLIC HEARING – RURAL RESIDENTIAL LOT SPLIT LOT 2, BLOCK 1, HANSON SUBDIVISION

Chairman Yeager called for the continued public hearing on a rural residential lot split for Part of Lot 2, Block 1, Hanson Subdivision. The property is located northwest of Bismarck, south of Burnt Creek Loop along the east side of Fernwood Drive.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a rural residential lot split have been met.
2. The resulting parcels would meet the minimum lot width, depth and area requirements of the zoning district in which it is located, provided they are combined as proposed.
3. The Hay Creek Township Board of Supervisors has recommended approval of the proposed lot split plat.
4. The proposed lot split is compatible with adjacent land uses.
5. The proposed lot split and the resulting parcels would not place an undue burden on existing public services and facilities.
6. The proposed lot split complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance, provided the resulting parcels are combined as proposed.
7. The lot split is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed lot split would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the rural residential lot split for Lot 2, Block 1, Hanson Subdivision with the following conditions:

1. The lot split shall not be final until the proposed auditor's plats are approved by the County Auditor and recorded.
2. Auditor's Lot B of Lot 2 must be combined with the adjacent parcel (South 100.63' of Lot 2).

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

Mr. Pearce said he attended the meeting referenced in the staff report and is receptive to the requested lot split. He said the driveway will match up with the neighboring properties and does not see any other issues to address.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the request for a rural residential lot split for Lot 2, Block 1, Hanson Subdivision with the following conditions: 1. The lot split shall not be final until the proposed auditor's plats are approved by the County Auditor and recorded; and 2. Auditor's Lot B of Lot 2 must be combined with the adjacent parcel (South 100.63' of Lot 2). Commissioner Laning seconded the motion and the request was unanimously approved with Mr. Pearce and Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – RURAL RESIDENTIAL LOT SPLIT LOT 1, BLOCK 2, FALCONER ESTATES

Chairman Yeager called for the public hearing on a rural residential lot split for Lot 1, Block 2, Falconer Estates. The property is located south of Bismarck, south of 48th Avenue SE, along the east side of Sibley Drive, in the southwest quadrant of the intersection of Apple Creek Drive and Falconer Drive.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a rural residential lot split have been met.
2. The resulting parcels would meet the minimum lot width, depth and area requirements of the zoning district in which it is located.
3. The proposed lot split is compatible with adjacent land uses.
4. The proposed lot split and the resulting parcels would not place an undue burden on existing public services and facilities.

5. The proposed lot split complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance, provided the resulting parcels are combined as proposed.
6. The lot split is consistent with the master plan, other adopted plans, policies and accepted planning practice.
7. The proposed lot split would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the rural residential lot split for Lot 1, Block 2, Falconer Estates with the following condition:

1. The proposed lot split shall not be final until an auditor's plat is prepared, approved by the Burleigh County Engineer and recorded.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the request for a rural residential lot split for Lot 1, Block 2, Falconer Estates with the following condition: 1. The proposed lot split shall not be final until an auditor's plat is prepared, approved by the Burleigh County Engineer and recorded. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE LOT 1, BLOCK 1, GOOD SHEPHERD NORTH ADDITION

Chairman Yeager called for the public hearing on a zoning change from the PUD-Planned Unit Development zoning district to the RT-Residential zoning district for Lot 1, Block 1, Good Shepherd North Addition. The property is located in northwest Bismarck, on the west side of North Washington Street between Medora Avenue and West LaSalle Drive.

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change may be compatible with adjacent land uses and zoning.

3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn said, based on the above findings, staff recommends approval of the zoning change from the PUD – Planned Unit Development zoning district to the Conditional RT – Residential zoning district for Lot 1, Block 1, Good Shepherd North Addition, as further detailed in the draft ordinance.

Commissioner Lee asked what density would be allowed within the RT-Residential zoning district. Mr. Nairn said it allows for 30 units per acre, but that one room in nursing care is not considered a unit.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

Chairman Yeager asked what happens if the zoning change is approved here but the sale of the property falls through. Mr. Nairn said the zoning change would become effective upon approval by the City Commission, where there will also be a public hearing, and the buyer would need to let staff know if there is a change in the sale prior to the final City Commission meeting.

Commissioner Seminary said zoning change requests for this property have historically had a lot of public comments and communication. He then asked if there has been any input given on this request from the adjacent neighborhood.

Mr. Nairn said he had a few people contact him within the last few weeks with questions regarding the proposed use and height. He said it seems there was more concern when it was proposed to be a multi-family use and the applicant did hold a neighborhood meeting recently to answer any questions residents might have.

Patrick Koski, Trademark Realty, said he helped facilitate the neighborhood meeting and is aware of the history of zoning change requests for this particular property. He said there was good, open discussion to explain the future plans for the site. He said the main concern did seem to be regarding the height of the building so at the neighborhood meeting, details such as how far away the building would be from any existing structures was provided. He stated he felt it was a good meeting overall.

Jill Yri, 4829 Driftwood Lane, said she would be happy to see a care center at this location instead of 288 multi-family units. She said she has some uncertainty with her main concern being the height of what would be built there.

Rachelle Schommer, said she is cautiously optimistic about this proposal and feels Missouri Slope Lutheran Care Center would be a great neighbor. She said she is glad the structure would be distanced from the residential homes but would like to see a site plan when it becomes available.

Ms. Yri said she is less concerned with an increase in traffic now than she was before as well.

Mr. Nairn explained that in addition to the standard requirements of the RT zoning district, the conditions would be that the property may be used by-right only as a continuum of care health care community, which may include but is not limited to senior housing, skilled nursing, assisted living, or other administrative or accessory services related to the primary use, the property may be used as a child care center subject to approval of a special use permit pursuant to Section 14-03-08 hereof and no building located within one hundred (100) feet of the lot lines of Lots 1-9, Block 6, Horizon Heights Second Addition, shall exceed two stories or 35 feet in height.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to recommend approval of the zoning change from the PUD – Planned Unit Development zoning district to the Conditional RT – Residential zoning district for Lot 1, Block 1, Good Shepherd North Addition, as further detailed in the draft ordinance. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE LOT 19, BLOCK 2, SONNET HEIGHTS SUBDIVISION 2ND REPLAT

Chairman Yeager called for the public hearing on a zoning change from the RM30-Residential zoning district to the RT-Residential zoning district for Lot 19, Block 2, Sonnet Heights Subdivision Second Replat. The property is located in north Bismarck, between US Highway 83 and Yukon Drive, along the south side of 57th Avenue NE.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed zoning change is outside the area included in the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Wollmuth said, based on the above findings, staff recommends approval of the the zoning change from the RM30 – Residential zoning district to the RT - Residential zoning district on Lot 19, Block 2, Sonnet Heights Subdivision Second Replat with the following condition:

1. The location of the existing joint access easement serving Lot 19 and Lot 18 may need to be modified in conjunction with site plan review and approval.

Chairman Yeager opened the public hearing.

Andrew Hadlich, 5606 Calvert Drive, said he lives south of this property and knows other owners have tried to change it to a commercial zoning district before. He asked if it gets zoned RT-Residential now, will that make it easier to change it to a commercial zoning district in the future.

Ms. Wollmuth said the discussions and hearings regarding the zoning change of this property have consistently indicated that staff would not support anything higher than an RT-Residential zoning district on it.

Chris Ziegler, 5530 Calvert Drive, said he also lives south of this property and would like to know what uses are allowed in the RT-Residential zoning district. Ms. Wollmuth said it would allow uses such as multi-family, up to 30 units per acre, as well as group dwellings, offices and banks and beauty salons.

Mr. Ziegler said he is concerned about what the height of a newly constructed building could be and the zoning district seems to keep changing. He then asked if a buffer yard of some distance would be required.

Ms. Wollmuth said the property was originally platted as RM30-Residential in 1980 and if a multi-family use is developed on this property, a 15-foot buffer yard with various planting materials would be required. She said if a more intense use is developed, other than multi-family residential, a 20-foot buffer yard with various planting materials would be required.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to recommend approval of the zoning change from the RM30 – Residential zoning district to the RT - Residential zoning district on Lot 19, Block 2, Sonnet Heights Subdivision Second Replat with the following condition: 1. The location of the existing joint access easement serving Lot 19 and Lot 18 may need to be modified in conjunction with site plan review and approval. Commissioner Schwartz seconded the motion and the request was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING) LOT 5 AND PART OF LOT 8, BLOCK 4, NORTHWOOD ESTATES REPLAT

Chairman Yeager called for the public hearing on a request for a special use permit to increase the maximum area of accessory buildings on the parcel to 3,174 square feet on Lot 5 and part of Lot 8, Block 4, Northwood Estates Replat. The property is located north of Bismarck, east of US Highway 83 and south of 110th Avenue NE, along the south side of Chokecherry Drive.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the special use permit to increase the maximum area of accessory buildings on the parcel to 3,174 square feet for Auditor's Plat B of Lot 5 and part of Lot 8, Block 4, Northwood Estates Replat with the following condition:

1. The maximum square foot of all accessory structures on the parcel shall not exceed 3,174 square feet upon completion of the new accessory structure.

Commissioner Laning asked if the rectangle on the site plan drawing indicates the structure that is to be built. Mr. Hutchings said that is correct and indicated the location of the structure that will be removed.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Schwartz made a motion to approve the special use permit to increase the maximum area of accessory buildings on the parcel to 3,174 square feet for Auditor's Plat B of Lot 5 and part of Lot 8, Block 4, Northwood Estates Replat with the following condition: 1. The maximum square foot of all accessory structures on the parcel shall not exceed 3,174 square feet upon completion of the new accessory structure. Commissioner Donahue seconded the motion and the request was unanimously approved with Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT
(ACCESSORY BUILDING)
LOT 1, BLOCK 7, NORTHRIDGE ESTATES 2ND ADDITION**

Chairman Yeager called for the public hearing on a request for a special use permit to allow the construction of a 3,200 square foot accessory building on Lot 1, Block 7, Northridge Estates 2nd Addition. The property is located North of Bismarck, along the south side of 84th

Avenue NE, in the southeast quadrant of the intersection of 84th Avenue NE and Ridgeland Drive.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The Hay Creek Township Board of Supervisors has recommended approval of the proposed special use.
4. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
5. Adequate public facilities and services are in place or would be provided at the time of development.
6. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
7. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow the construction of a 3,200 square foot accessory building on Lot 1, Block 7, Northridge Estates 2nd Addition with the following condition:

1. The maximum square foot of all accessory structures shall not exceed 3,200 square feet upon completion of the new accessory structure.

Commissioner Laning asked about the comment received from a resident stating two other people were turned down recently for requests similar to this one. Mr. Hutchings said after doing some research he found that one of those requests was for a variance from the front yard setback requirement which was denied by the Board of Adjustment. He said the owner modified his plans and was able to make the building fit appropriately on his property. He said the other request was prior to a zoning ordinance text amendment that increased the maximum square footage of accessory buildings up 3,200 square feet with a special use permit for a property this size.

Chairman Yeager opened the public hearing.

Written comments in opposition to this request are attached as Exhibits A-C.

Mr. Pearce said neither he nor the Hay Creek Township has had any objections to this request.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Mr. Pearce made a motion to approve the special use permit to allow the construction of a 3,200 square foot accessory building on Lot 1, Block 7, Northridge Estates 2nd Addition with the following condition: 1. The maximum square foot of all accessory structures shall not exceed 3,200 square feet upon completion of the new accessory structure. Commissioner Laning seconded the motion and the request was unanimously approved with Mr. Pearce and Commissioners Axvig, Donahue, Laning, Lee, Schwartz, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING PROCEDURES AND PROTOCOL – DISCUSSION OF FINAL DRAFT

Ms. Lee said the Public Hearing Procedure and Protocol document has been worked on it and edited slightly since the last meeting and a draft of the document has been provided.

Ms. Lee said she made the suggested changes to item #3 regarding the discussion of requests between the Commissioners and staff. She said if the procedures are ready to be approved then she will start including them in the meeting packets. She also said she would like to pair this document with a process schedule as a companion document.

The general consensus was to implement the procedures and protocol document and include it in the meeting packets going forward.

REQUEST TO AMEND ZONING ORDINANCE TO ALLOW CHICKENS IN THE RR ZONING DISTRICT

Ms. Lee said the Planning Division occasionally has requests and inquiries for the allowance of chickens in various zoning districts. She said the City of Fargo recently adopted an ordinance to allow chickens in certain zoning districts and the Planning Division recently received a written request from a resident in an RR-Residential zoning district to consider the allowance of chickens. She said at this time staff is seeking guidance on whether or not to pursue a zoning ordinance text amendment to start allowing chickens in rural residential districts.

Chairman Yeager asked if similar ordinances specify a number of chickens allowed. Ms. Lee said some communities do and some do not. She said staff would likely not allow them to be within city limits with this amendment.

Commissioner Waldoch asked what the average number of chickens allowed by other City ordinances is. Mr. Hutchings said he has seen ordinances allow anywhere from two to an unlimited number.

Commissioner Seminary said he feels it makes sense for the request to be considered and go through the process.

Commissioner Axvig asked if the draft ordinance can include a tentative limit of twelve chickens to be allowed based on the parcel size.

Ms. Lee said they can include that and modify the draft ordinance as needed.

Commissioner Lee said he would support an ordinance for this. He said with North Dakota being such an agricultural state, he feels this is something that could really benefit children. He said he would advise against allowing commercial chicken operations, however.

Mr. Pearce asked if there is currently an ordinance for the allowance of rabbits in any zoning districts. Ms. Lee said there is not one for rabbits at this time.

Commissioner Donahue asked if the State Veterinarian has been or will be consulted. Ms. Lee said staff would check with them as well.

The general consensus of those present was to move forward and have staff draft an ordinance allowing chickens in rural residential zoning districts.

OTHER BUSINESS

Ms. Lee informed those present that the owner and applicant for Hamilton's First Addition First Replat minor plat and zoning change, which was denied by the Bismarck Planning and Zoning Commission on April 26, appealed the decision to the City Commission. She said the neighboring condo association submitted new comments supporting approval of the requests, so the City Commission has called for a public hearing to be held on June 13th.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:55 p.m. to meet again on June 28, 2017.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Yeager
Chairman

DRAFT

RECEIVED
MAY 22 2017

Dear Bismarck Planning and Zoning Commission:

Mary 18, 2017

I am writing this letter in reference to the special permit request for a 3,200 square foot accessory building to be located on Lot 1, Block 7, and Northridge Estates 2nd Addition. The property is located north of Bismarck, along the south side of 84th Ave NE and Ridgeland Drive.

I own a home at 8120 Northwood Dr in this area. When my husband and I purchased our lot and built our home, it was important to us that we live in a well manicured area, where the covenants are abided by and enforced. (Please see attached)

A couple of years ago, my husband built a shop. When he went to get a permit, he was told the largest building he could build was 1600 square ft. I talked to others in the area, and they were told the same. Why change it now. I feel if you grant this permit, it will open the door for anyone and everyone to build more 3200 square foot shops in our area! That was not the idea we had when we built our home in this area.

Last year after a heavy rain that area was under water because of the drainage there. This building would be right beside 84th Ave NE, an eye sore for anyone driving into our area.

My additional question, is this going to be a storage unit, residential, or business? With steps up the side of the building and 3 walk in doors in front.

I have been talking to a lot of neighbors in my area and everyone that I have talked to do not want this size of building. We want you to enforce the covenants and the building code. With that, please deny this permit!

Kathleen Wagner

8120 Northwood Dr

Bismarck ND 58503

Declaration of Protective Covenants

Whereas, the undersigned are the owners and grantors of all of the within Northridge Estates First Subdivision and are desirous of recording the following building and use restrictions to the following legally described property:

Lot One (1) through Lot Five (5), Block One (1); Lot One (1) through Lot Seven (7) Block Two (2); Lot One (1) through Lot Ten (10), Block Three (3); Lot One (1) through Lot Four (4), Block Four (4); Lot One (1) through Lot Five (5), Block Five (5); Lot One (1) through Lot Six (6), Block Six (6); Lot One (1) and Two (2), Block Seven (7); Northridge Estates First Subdivision, Situated in the West One Half (W1/2) of Section Four (4), Township 139 North, Range 80 West, in Burleigh County, North Dakota:

Now Therefore, in consideration of the premises, the undersigned hereby establish and declare the following restrictions and protective covenants shall be applicable to all of the above described real estate.

PERSONS BOUND BY THE RESTRICTIONS AND COVENANTS; all persons and entities who shall acquire any interest in and to the above described real estate hereinafter referred to as grantees, shall be taken to hold and agree and covenant with the owners of the lots and with their heirs, trustees and assigns, to conform to and to observe the following covenants and restrictions which are attached to the real estate.

BUILDING AND USE RESTRICTIONS:

- (1) Each lot shall be utilized as a single family residential lot and shall be sold exclusively for residential purposes only.
- (2) The main floor living area of the dwelling structure, exclusive of basements, garages, decks and other open areas, shall not be less than 1400 square feet. Dwellings containing more than one level shall have a minimum of 2000 square feet above grade level. All dwellings must have an attached garage of not less than two stall. Detached garages are allowed however, they must conform to the Burleigh County regulations regarding size.
- (3) Detached garages must be of the same material used on the roof and siding of the main dwelling structure.
- (4) The term residential as used herein shall be construed as single family residences and shall exclude the rental of portions of the home, and shall exclude professional and commercial uses which would interfere with the appearance and integrity of the subdivision.
- (5) No lot owner shall fence his/her yard with barb wire fence, All fences shall be of wood or

metal. No poles used for radio or television antennas, windmills, or structures for collection of solar energy shall be constructed upon a lot.

(6) All dwelling units shall be constructed of new materials only. No prefabricated dwelling structures shall be moved, placed, or permitted on the property.

(7) No property shall at any time be used for any trade, profession, manufacturing or business of any description, which would be noxious or offensive, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood as determined in the exclusive and sole discretion of the developers of the property.

(8) No lot shall be subdivided without the approval of the developers of the subdivision. Once the lot boundary is established, further subdividing will not be permitted unless a lot owner is desirous of selling a few feet of his/her lot to a neighboring lot, and then, only with the approval of the developers of the subdivision.

(9) No trailer, mobile home, camper, tent, shack, garage or other building erected shall at any time be utilized as a dwelling, temporarily or permanently, nor shall any structure of a temporary basis be utilized as a dwelling, and the exterior of the dwelling shall be finished in its entirety before it can be occupied. No trailer, mobile home, camper, motor home or equipment shall be stored on any portion of the lot unless stored within the garage or directly adjacent to the outside structure or attached garage.

(10) It shall NOT be permissible to house horses on any of the lots either temporarily or permanently. Domestic pets, limit of two dogs and or two cats, may be kept on any lot so long as they are restrained to the individual lot owners property and are the property of the lot owner. Said pets may not create a nuisance to other owners. All dogs shall be either maintained on a leash or otherwise restricted to the owner's premises so as not to run at large at any time. No kennel may be erected or placed within 15 feet of the boundary line of any adjacent lot within the subdivision. No cow, hog, goat, sheep or other similar animal shall be kept or maintained on any lot nor shall any chicken yard or similar factory be maintained thereon.

(11) No construction material of any nature shall be moved upon the lot prior to sixty (60) days before start of construction and any building started shall have its exterior completed within one (1) year from the date of its starting. All construction debris is to be removed within thirty (30) days after occupancy or finishing of a structure's exterior. Lots without structures shall be free of building materials, vehicles, shacks or other unsightly debris as determined by the developer. It is the responsibility of each lot owner to not leave debris on the lot which could be taken by the wind to litter other property in the area. Also, each lot owner will be responsible for keeping the lot mowed and clear of weeds and unsightly growth of cover. In the event any lot owner fails to maintain his/her lot in a husbandry like manner, the subdivision lot owners may elect to have the lot cleaned up and assess the charges against the lot owner by filing a lien against the lot.

(12) No trash, ashes, or other refuse may be thrown, dumped or stored on any lot. All

trash, other refuse, trash cans and containers shall be kept in garages or in enclosures such that they will be concealed from the view of streets and lots which are adjacent to the lot on which they are located, except on days garbage is collected. No burning barrels shall be allowed on the premises. All garbage shall be kept in metal, plastic or concrete containers.

(13) There shall be no abandoned, junked or wrecked vehicles or equipment stored on any lot.

(14) No sign, billboards or advertising devices of any kind, except two (2) professional signs owned by the developer advertising the addition for sale or rent during the construction or development stage. The owner of the lot may place a for sale or rent sign when wishing to dispose of his or her property, however, said sign shall not exceed five (5) square feet.

(15) All lots conveyed as unimproved property without any obligation on the part of the developers to improve the same.

(16) These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date of these covenants and restrictions recorded, after which times said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by seventy-five (75) percent of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. Invalidity of any of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Right to Enforce:

The covenant and restrictions herein set forth shall run with the land and kind present owners, their heirs, devisees, trustees, and assigns, and any and all other parties claiming by, through, or under them, shall be taken to hold, agree and covenant with the owners of said lots, to conform to and observe said covenants and restrictions as to the use of said lots and the construction of improvements thereon; but, no covenants or restrictions herein set forth shall be personally binding upon any corporation, person or persons, except in respect to breach which is committed during its, his, or their seizing of, or title to said land; and the owner or owners of any of the above lands shall have the right to sue for and obtain an injunction prohibitive or mandatory to prevent the breach of, or to enforce the observance of the covenants and restrictions above set owners of any lot to enforce the covenant and restrictions herein set forth at the time of any violation thereof, shall be in no event deemed as a waiver of the right to do so. The above covenants and restrictions may be altered or amended at any time upon the placing of record at office of the County Clerk and Recorder the written consent thereto by the owners of at least seventy-five percent (75%) of the above-described lots.

From: [Planning - General Mailbox](#)
To: [Carl Hokenstad](#); [Daniel Nairn](#); [Hilary Balzum](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Public Hearing Project Hearing SUP2017-006
Date: Monday, May 22, 2017 5:20:46 PM

Community Development Department,

We are unable to attend the public hearing on May 24, 2017 in relation to the special use permit request from Scott O. and Dawn E. Bauer so we are providing comments via email.

We are neither for nor against the proposed project but what we do feel very strongly about are that fairness and consistency is applied with regards to approving or not approving special use permits in the development. There was another resident that applied for a special use permit on Ridgeland Drive within the last year or so and that permit was denied. Please be consistent with your decisions. Nothing greater to cause division and hard feelings among neighbors when one applies for a permit and doesn't get it and then another neighbor 5 lots to the north applies for a special use permit and receives it. We were not against the previous request which was only 2 lots to the north of us however their permit was denied.

We realize that the requests are different in nature; however what was being asked wouldn't have negatively impacted the development as far as the all the neighbors were concerned that we visited with. Please be consistent in your decisions.

Thank you,

Ronald & Elka Herr
7917 Ridgeland Dr
Bismarck, ND 58503

From: [Planning - General Mailbox](#)
To: [Carl Hokenstad](#); [Daniel Nairn](#); [Hilary Balzum](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Special permit request
Date: Tuesday, May 23, 2017 8:33:41 AM

From: Patrick Geiger [mailto: [REDACTED]]
Sent: Monday, May 22, 2017 7:45 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Special permit request

Dear Commissioners,

I am writing this letter in regards to the special permit request for a 3200 square foot accessory building on Lot 1, Block 7 of Northridge Estates 2nd Addition. My home is at 8202 Northwood Drive.

While I believe strongly in a property owners rights, I do have a few concerns.

- #1. What is the overall height of this building ? (Will it be somewhat hidden by the property owners trees or will it protrude into the sky for the entire neighborhood to see ?)
 - #2. What is the "special use" that is being requested ? (Is it just the large size of the building ?)
 - #3. What kind of precedent does it set if this permit is granted? (How long will it be before someone wants to build an even larger building and the area looks like an industrial park?)
- Although the drawing we received shows what appears to be a very nice building, the Commission needs to carefully consider all the possible ramifications of granting the permit before doing so.

Respectfully, Patrick Geiger

PERMIT ACTIVITY REPORT - MTD
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	5/2017		5/2016		5/2017		5/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	17	\$3,266,492.38	33	\$6,690,481.25	5	\$1,310,164.00	3	\$552,098.50
ROWHOUSE (2) 1-HR FIRE SEPARATION	12	\$2,221,131.00	16	\$2,843,365.50	0	\$0.00	0	\$0.00
ROWHOUSE	0	\$0.00	6	\$576,000.00	0	\$0.00	0	\$0.00
2-UNIT DUPLEX OR CONDO	0	\$0.00	6	\$1,050,342.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	8	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	0	\$0.00	1	\$110,000.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	0	\$0.00	9	\$0.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	0	\$0.00	1	\$104,304.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	0	\$0.00	1	\$10,000.00	0	\$0.00	1	\$18,000,000.00
OTHER NEW	0	\$0.00	1	\$175,000.00	0	\$0.00	0	\$0.00
ROOM ADDITIONS	1	\$29,812.50	3	\$283,170.00	3	\$254,790.00	2	\$57,034.50
RESIDENTIAL GARAGES	15	\$139,772.00	10	\$109,332.00	15	\$291,496.00	7	\$130,920.00
DECKS PORCHES & COVERED PATIOS	36	\$111,630.00	35	\$126,421.25	4	\$20,220.00	3	\$20,100.00
SWIMMING POOLS & SPAS	0	\$0.00	1	\$52,018.00	3	\$192,331.00	1	\$46,309.00
OTHER	9	\$244,800.00	6	\$463,198.00	0	\$0.00	2	\$162,000.00
HOME OCCUPATION	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
STORAGE SHEDS	3	\$8,400.00	5	\$16,940.00	2	\$5,172.00	2	\$7,200.00
BASEMENT FINISH	16	\$66,671.00	7	\$37,225.75	1	\$1,377.50	4	\$20,914.25
COMMERCIAL BUILDINGS	21	\$19,553,706.97	13	\$2,035,358.00	0	\$0.00	7	\$33,000.00
PUBLIC BUILDING	1	\$350,000.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	3	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	0	\$0.00	2	\$0.00

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	5/2017		5/2016		5/2017		5/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
MISC TEMPORARY STRUCTURES	1	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	9	\$47,630.00	1	\$9,220.00	0	\$0.00	0	\$0.00
SIGN ALTERATION	0	\$0.00	3	\$42,150.58	0	\$0.00	0	\$0.00
Total	153	\$26,040,045.85	163	\$14,734,526.33	33	\$2,075,550.50	34	\$19,029,576.25

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	5/2017		5/2016		5/2017		5/2016	
Trade Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	116	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	33	\$1,650.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	39	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	0	\$0.00	9	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	0	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL MOBILE HOME	5	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	0	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	124	\$2,084,903.52	0	\$0.00	11	\$60,479.76	0	\$0.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	20	\$125,077.00	0	\$0.00	2	\$8,913.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	8	\$28,000.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	35	\$364,804.00	0	\$0.00	5	\$59,767.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	36	\$3,143,420.00	0	\$0.00	3	\$58,795.00
BUILDING MECHANICAL OTHER	0	\$0.00	1	\$453.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	20	\$34,825.62	0	\$0.00	1	\$841.00
BUILDING PLUMBING	56	\$2,090,185.00	87	\$4,090,995.98	6	\$45,375.00	7	\$107,425.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	1	\$0.00	2	\$0.00
Total	301	\$4,175,088.52	298	\$7,789,225.60	18	\$105,854.76	20	\$235,741.00

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	*****City*****		*****ETA*****	
	5/2017	5/2016	5/2017	5/2016
Living Units	Units	Units	Units	Units
OTHER NEW	0	0	0	0
ROWHOUSE	0	6	0	0
MANUFACTURED HOMES	8	0	0	0
2-UNIT DUPLEX OR CONDO	0	12	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	12	16	0	0
SINGLE FAMILY DETACHED	17	33	5	3
Total	37	67	5	3

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	5/2017		5/2016		5/2017		5/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	71	\$13,913,365.18	84	\$16,575,327.25	11	\$2,786,044.50	12	\$2,830,834.25
ROWHOUSE (2) 1-HR FIRE SEPARATION	18	\$3,212,631.00	78	\$11,154,002.25	0	\$0.00	0	\$0.00
ROWHOUSE	0	\$0.00	6	\$576,000.00	0	\$0.00	0	\$0.00
2-UNIT DUPLEX OR CONDO	0	\$0.00	6	\$1,050,342.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	15	\$0.00	14	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME EXTRAS	0	\$0.00	1	\$1,800.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	2	\$0.00	4	\$110,000.00	0	\$0.00	0	\$0.00
AMUSEMENT & RECREATION	0	\$0.00	1	\$125,750.00	0	\$0.00	0	\$0.00
CHURCHES & RELIGIOUS	0	\$0.00	1	\$99,622.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	1	\$2,500,000.00	15	\$17,000.00	0	\$0.00	0	\$0.00
HOSPITALS & INSTITUTIONAL	0	\$0.00	4	\$155,000.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	1	\$70,565.00	4	\$367,404.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	1	\$6,847,730.00	2	\$3,265,847.00	0	\$0.00	1	\$18,000,000.00
RETAIL SALES	1	\$55,000.00	4	\$1,288,600.00	0	\$0.00	0	\$0.00
OTHER NEW	3	\$3,077,983.00	1	\$175,000.00	0	\$0.00	0	\$0.00
ROOM ADDITIONS	6	\$158,667.00	14	\$513,326.75	8	\$520,080.00	8	\$220,265.50
RESIDENTIAL GARAGES	30	\$251,871.00	27	\$397,785.02	28	\$532,488.00	31	\$675,754.00
DECKS PORCHES & COVERED PATIOS	63	\$194,390.00	82	\$299,801.25	12	\$53,745.00	9	\$37,095.00
SWIMMING POOLS & SPAS	0	\$0.00	2	\$114,130.70	3	\$192,331.00	2	\$120,309.00
OTHER	31	\$816,058.00	34	\$1,087,594.48	5	\$305,610.08	5	\$171,100.00
HOME OCCUPATION	6	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
STORAGE SHEDS	6	\$17,400.00	8	\$26,285.00	2	\$5,172.00	4	\$53,280.00

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	5/2017		5/2016		5/2017		5/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BASEMENT FINISH	70	\$312,283.50	83	\$408,596.00	18	\$133,819.00	24	\$143,505.10
COMMERCIAL BUILDINGS	82	\$48,389,897.38	84	\$7,539,155.00	1	\$1,482,274.00	10	\$730,000.00
OFFICE BUILDINGS	0	\$0.00	1	\$7,500.00	0	\$0.00	0	\$0.00
PUBLIC BUILDING	1	\$350,000.00	0	\$0.00	0	\$0.00	0	\$0.00
MULTI-FAMILY TO SINGLE-FAMILY	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL	2	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	5	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	0	\$0.00	2	\$0.00
NURSERY STOCK SALES	4	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	2	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	41	\$241,218.86	54	\$445,186.01	0	\$0.00	0	\$0.00
SIGN ALTERATION	0	\$0.00	10	\$93,349.04	0	\$0.00	0	\$0.00
Total	462	\$80,409,059.92	637	\$45,894,403.75	88	\$6,011,563.58	108	\$22,982,142.85

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	5/2017		5/2016		5/2017		5/2016	
Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	380	\$2,600.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	351	\$60,845.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	148	\$7,000.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	0	\$0.00	72	\$35.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	0	\$0.00	13	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ELEVATOR	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL HVAC APPLIANCE	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	0	\$0.00	76	\$259,970.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL SIGN	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	579	\$6,298,659.41	0	\$0.00	65	\$527,852.13	0	\$0.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	59	\$611,132.00	0	\$0.00	7	\$29,208.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	62	\$211,522.00	0	\$0.00	11	\$42,500.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	136	\$1,008,714.20	0	\$0.00	14	\$132,304.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	210	\$8,508,957.00	0	\$0.00	31	\$1,116,880.00
BUILDING MECHANICAL OTHER	0	\$0.00	1	\$453.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	143	\$208,685.07	0	\$0.00	12	\$21,134.00
BUILDING PLUMBING	145	\$4,567,740.00	228	\$6,898,973.53	12	\$93,375.00	19	\$196,958.00
BUILDING SEPTIC	0	\$0.00	0	\$0.00	1	\$0.00	9	\$0.00
BUILDING SEPTIC EVALUATION	0	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
Total	1104	\$10,868,999.41	1531	\$17,776,286.80	78	\$621,227.13	104	\$1,538,984.00

**PERMIT ACTIVITY REPORT - YTD
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	5/2017	5/2016	5/2017	5/2016
Living Units	Units	Units	Units	Units
OTHER NEW	0	0	0	0
OTHER NEW	0	0	0	0
ROWHOUSE	0	6	0	0
MANUFACTURED HOMES	15	12	0	0
2-UNIT DUPLEX OR CONDO	0	12	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	18	78	0	0
SINGLE FAMILY DETACHED	71	84	11	12
Total	104	192	11	12